

**Rotherham Metropolitan Borough Council**

**Children & Young People's Services**

**ADMISSION APPEALS**

**A GUIDE FOR PARENTS AND CARERS**

**Revised: February, 2013**

<b>CONTENTS</b>	<b>Page Number</b>
<b>Introduction</b>	<b>3</b>
<b>Who makes decisions regarding school admissions?</b>	<b>3</b>
<b>Admission Appeals</b>	<b>3</b>
<b>How do I make an appeal?</b>	<b>4</b>
<b>Late appeals</b>	<b>4</b>
<b>Who will hear my appeal?</b>	<b>5</b>
<b>How do I prepare for the hearing?</b>	<b>5</b>
<b>Can I bring someone to the appeal with me?</b>	<b>5</b>
<b>Witnesses</b>	<b>5</b>
<b>How is the hearing conducted?</b>	<b>6</b>
<b>What should my case contain?</b>	<b>6</b>
<b>What if my child has a Statement of Special Educational Needs?</b>	<b>7</b>
<b>Restrictions on appeals panels</b>	<b>7</b>
<b>Waiting lists</b>	<b>7</b>
<b>What does a panel consider?</b>	<b>7</b>
<b>How does the panel reach its decision?</b>	<b>8</b>
<b>What will happen after the hearing?</b>	<b>8</b>
<b>What happens if I do not agree with the decision?</b>	<b>8</b>
<b>Additional Information</b>	<b>10</b>
<b>Appendix A - Limits to Infant Class Sizes</b>	<b>11</b>
<b>Appendix B – Co-ordinated Admission Arrangements</b>	<b>11</b>
<b>Notice of Appeal Form</b>	<b>13</b>

## **INTRODUCTION**

If your child has been refused a place at the school you prefer, you have the right to appeal against that decision. This booklet is provided to help you decide whether to appeal against that decision and if you decide you would like to appeal, how to do it.

Appendix B of this booklet provides details of the Co-ordinated Admission Arrangements. If you wish to appeal for a school outside your home authority you should complete the appeal form for that authority, which is available from this office or the appropriate Local Authority, (LA).

Appeals are heard by a special committee called an Appeals Panel. It is independent of the school and Local Authority (LA) and is supervised by the Administrative Justice and Tribunals Council.

If you wish to obtain a copy of the Admission to Primary or Secondary School booklets, these can be obtained from:-

The Admissions Team  
Children & Young People's Services  
Riverside House  
Main Street  
Rotherham. S60 1AE  
Tel. 01709 822647 or 822508

Further information and advice on independent appeals can be obtained from:-

The Appeal Clerk  
Legal and Democratic Services  
Town Hall  
The Crofts  
Moorgate Street  
Rotherham  
S60 2TH  
Tel. 822054 or 822062

## **WHO MAKES DECISIONS REGARDING SCHOOL ADMISSIONS?**

The Local Authority (LA) makes decisions on school admissions for Community and Controlled Schools in Rotherham. For Voluntary Aided Schools, (church schools) the Trust School and Academies the Governing Body of the school is the Admissions Authority although Rotherham Metropolitan Borough Council currently facilitates the appeals for all except one of these schools.

## **ADMISSION APPEALS**

If you receive a letter informing you that the LA or school Governing Body has decided not to offer a place at your preferred school to your child, the reasons for this should be made clear. You will need to think carefully about whether or not you wish to appeal against this decision. You will need to consider the following:-

- The LA/Governing Body's policy for admitting pupils and the specific reasons given for not admitting your child. The policy is published in the Admission to Primary & Secondary School booklets.

- Your reasons for wanting your child to attend your preferred school(s) and the strength of your case.
- Alternative schools where places remain available. You may wish to speak with the Admissions Team to establish the up-to-date position in respect of the availability of places at alternative schools. Also, you may wish to visit these schools or speak with the Head Teacher.

## **HOW DO I MAKE AN APPEAL?**

**Please note:- If your appeal is related to the limits to Infant Class Sizes please read the notes below and refer Appendix A later in this document which provides further details.**

The L.A., on behalf of the appropriate admission authority, issues the letter informing you of the decision and your right of appeal. Your notice of appeal must be in writing and it should set out the grounds that you wish the Appeal Panel to consider. You should think carefully about the original reasons that you gave for wanting your child to attend the school. The appeals panel will be given copies of the appeal form and any additional information you submit with the appeal form.

You should aim to set out as fully as possible the grounds for your appeal. You should send copies of any letters or documents, such as medical evidence, with your appeals form if you wish these to be considered at the hearing. Where letter or documents are not available at the time of the submission of your appeal form they should be forwarded to the Clerk to the Appeal Panel as soon as they become available, in order that they may be distributed to members of the Appeal Panel. You may produce other documents at the hearing, but you should remember that the panel members and the LA representative/Governing Body representative would not have had the opportunity to look at these or think about them. You should try to avoid producing documents on the day of the appeal hearing. Before the hearing, you will have received a statement of case from the LA/Governing Body.

Should any of the parties wish to raise matters or produce documents at the hearing which are not covered by the LA/Governing Body's statement of case, the notice of appeal or appeal form and any attached correspondence, these should be submitted to the Clerk to the Appeal Panel in good time prior to the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow the other party to consider the issues. It is in everyone's interest that this should be avoided if at all possible. The Appeal Panel will not itself obtain evidence other than that provided by the parties themselves. Information can only be placed before the Appeal Panel if it reaches the Clerk in good time for the hearing and cannot be considered after the Appeal Panel has made its decision. Where parents have applied to have their child admitted to more than one school, they are entitled to appeal against any unsuccessful application.

## **LATE APPEALS**

We try to have appeals heard promptly but please understand that there may be many appeals to consider in respect of several schools. If you submit your appeal form late, you may be disadvantaged because the appeal process has already begun or has been completed. If parents submit a late appeal and this is still accepted it should be heard at the same time as, or as soon as possible after, any other appeals for a particular school. In fairness to other parents, late appeals or hearings will not be allowed to hold up decisions for the majority.

## **WHO WILL HEAR MY APPEAL?**

The Appeals Panel will be made up of 3 members who will be entirely independent of the LA and of your preferred school. It is the duty of the Appeal Clerk to ensure that the hearing is fair and unbiased.

The appeals hearing will be held in private. Where a Panel is established by the LA or jointly by the LA with one or more school Governing Bodies, the Panel has the discretion to allow a member of the LA to attend the hearing as an observer, if the appeal concerns a Community or Voluntary Controlled School.

A member of the Council on Tribunals may attend any of the appeal hearings as an observer and may also be party to the deliberations.

The Clerk to the Appeals Panel will be present to record evidence. The clerk may give advice to the Panel or parents but takes no part in the decision making process.

## **HOW DO I PREPARE FOR THE HEARING?**

You should normally be given at least 10 days notice of the date and time of the hearing. A reasonable time before the hearing, you should receive a written statement of the LA/Governing Body's case. The Clerk to the Appeal Panel will send you details of the date, time and place at which the hearing is to be held.

The Appeal Panel must give the parents/carers the opportunity of attending the hearing personally to make representations should he/she wish to do so. It is very important that you should try to attend the hearing no matter how nervous or uncertain you may feel. It helps the Panel to arrive at a decision if you are there in person to put the case for your child. If you are unable to attend the hearing, you should let the Clerk know in good time, in order that, if required and where practicable, an alternative date and time for the hearing may be arranged. The hearing will be held in your absence where you choose not to attend or when it is unable to reschedule and your case will be heard on the basis of the written statements and other supporting documents and information you may have furnished. The Appeal Panel will then decide the appeal on the strength of your written case.

## **CAN I BRING SOMEONE TO THE APPEAL WITH ME?**

You may wish to have the help and support of someone at the hearing. The hearing is intended to be as informal as possible and whilst you may wish to be accompanied by a friend it is not usual for any party to have legal representation at the hearing. Should you wish to have a representative or friend accompanying you to the hearing, it is courtesy to let the Clerk to the Panel know beforehand. This will help all parties with their arrangements for the hearing.

If you require the help of an interpreter or require special access or other arrangements to be made, please notify the Clerk to the Panel in good time. He/She should be able to assist you. If you are unsure of anything, then you can always seek advice from the Clerk.

## **WITNESSES**

Parents are usually entitled to put their case as they would wish, but it is not normally necessary for witnesses to attend to give evidence. It is usual for witnesses to send a written statement to the Clerk setting out the details of their case. The Panel may allow witness evidence provided it is both relevant and non-repetitive. It is for the Panel to decide whether witnesses who have given evidence may remain for the remainder of the hearing.

## HOW IS THE HEARING CONDUCTED?

The appeal hearing should be informal but will normally follow the following stages:-

- Establish whether there are Key Stage One class size implications, (schools with pupils aged 4,5 and 6) See Appendix A.
- The Presenting Officer (LA Officer or representative of the School Governing Body in the case of aided schools) will present the case for the LA/Governing Body.
- You or your representative may question the LA/Governing body representative about the details of their statement and/or seek clarification of the points made.
- Members of the Panel may question the LA/Governing Body representative about their statement.
- You or your representative will present your case.
- The LA/Governing Body representative may ask you questions.
- Members of the Panel may ask you questions.
- The LA/Governing Body representative will sum up their case.
- You, or your representative are given the opportunity to have the final word in summing up your case.

By following this order, both you and the LA/Governing Body representative have an equal opportunity to put a case. Members of the Panel may ask questions at any time to make sure they understand all the points made by both yourself and the LA/Governing Body representative.

## WHAT SHOULD MY CASE CONTAIN?

You should put your case clearly and concisely. You should emphasise all the points you consider to be relevant. It is for you to decide the facts of your case but your case might include reasons why the school may be particularly suitable for your child, such as:-

- Religious reasons (in the case of aided schools).
- Family circumstances.
- Medical reasons (wherever possible these should be supported with evidence such as doctors' letters and any other documentation or statements you consider necessary).
- Transport.
- Family friends and other links with the school.
- Social reasons – with supporting evidence where possible.
- Your child's development
- Your nearness to the school

Please note that the Appeal Panel is only able to take account of the reasons you include in either your written or personal presentation.

The Department for Education (DfE) website offers advice to parents on a wide range of school related issues and has links to both the Admissions and the Appeals Code of Practice. The website is [www.education.gov.uk/publications](http://www.education.gov.uk/publications)

Copies of publications from the DfE can be obtained from the address below or by telephoning 0845 6022260  
 Department for Education, Castle View House, East Lane, Runcorn, Cheshire WA7 2GJ

The Advisory Centre for Education (ACE) is a national charity that provides free, independent advice on the admissions and appeals process and a range of education issues including bullying, exclusion, SEN and attendance. For advice, enquirers should free-phone 0808 800 5793. For further information visit [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

### **WHAT IF MY CHILD HAS A STATEMENT OF SPECIAL EDUCATIONAL NEEDS?**

If your child has a Statement of Special Educational Needs your right of appeal is through an independent Special Educational Needs and Disability Tribunal, not a School Admission Appeal.

### **RESTRICTIONS ON APPEALS PANELS**

You should note that Appeals Panels cannot decide upon the wider aspects of local admission policies and practice, such as the admission arrangements used by the LA or Governing Body. Neither can they decide upon catchment areas. These are matters which the LA or Governing Body have the responsibility to determine.

### **WAITING LISTS**

A waiting list may be maintained for administrative purposes by the school or LA. Appeal Panels have no power to determine where a child should be placed on a waiting list for a particular school. The position of a child on a waiting list is not a binding consideration of the Appeal Panel.

### **WHAT DOES A PANEL CONSIDER?**

Appeal panels are required to take into account parental preference, the reasons for this preference and the application of the admission arrangements as published by the admission authority.

School admission authorities are under a duty to comply with the expressed wishes of parental preference except in the following statutory cases:-

- Where to admit the child would prejudice the provision of efficient education or the efficient use of resources. (In Rotherham, the vast majority of school admission appeals relate to this category. There are special rules on prejudice in cases concerned with statutory limits on infant class sizes – see Appendix A).
- Where the child has been permanently excluded from two or more schools and at least one of the exclusions took place after 1 September 1997. In these circumstances, there are no requirements to comply with parental preference for 2 years after the second permanent exclusion.

## **HOW DOES THE APPEAL PANEL REACH ITS DECISION?**

The Appeal Panel's decision-making follows a two-stage process. In cases where your application has been refused, the admission authority must be able to satisfy the panel that the application was refused because one of the sets of circumstances set out above was fulfilled. If, for example, your application has been refused because there would be prejudice to the provision of efficient education or the use of resources, the Panel must satisfy itself that prejudice exists. If this prejudice is found not to exist, then the appeal must be allowed at this stage. When the Panel agrees that prejudice would arise it must then go to the second, balancing stage of decision making. This is when the Panel, in considering the parents' case, balance that evidence against the degree of prejudice which they have found to exist, and decide whether or not the case of the parent/carer is so strong that it outweighs the LA or Governing Body's case. Within this process, they will also consider whether the admission arrangements have been correctly applied according to the particular circumstances.

There are limited exceptions to this decision making process in the case of infant class sizes (See Appendix A for the decision making process in these circumstances).

Where a number of appeals for places at the same school are being heard, decisions will not be made in individual cases until all the parents have had an opportunity to make their case, or an injustice could result.

Where a number of appeals are being heard in relation to the same school, these will normally be heard by the same Appeal Panel.

## **WHAT WILL HAPPEN AFTER THE HEARING?**

You will be notified in writing of the Panel's decision within five school days of the date of the hearing. The decision letter will let you know the reasons given by the Panel for their decision. You do not have the right to see the notes of the hearing.

## **WHAT HAPPENS IF I DO NOT AGREE WITH THE DECISION?**

Both you and the LA/Governing Body of the school must accept the decision of the Appeal Panel. The decision of the Appeal Panel is binding on all parties. There is no further right of appeal.

If you feel however that the panel was not properly constituted, you may make a complaint to the Secretary of State for Education and request that action be taken. The Secretary of State will consider your case but **cannot** hear appeals or review Appeals Panel decisions.

If you have a complaint about the administration of the hearing and think that the procedures have not been correctly followed, then you can contact the Local Government Ombudsman. He/she can investigate your complaint where it is alleged that maladministration has taken place. For advice on making a complaint, or to make a complaint over the telephone, please call the LGO Advice Line on 0300 061 0614 or visit the website at [www.lgo.org.uk](http://www.lgo.org.uk). The email address is [advice@lgo.org.uk](mailto:advice@lgo.org.uk)

There are three Local Government Ombudsmen in England. Each of them deals with complaints from different parts of the country, but all new complaints will go to the LGO Advice Team (see above). Make your complaint over the phone, or send it to:

**The Local Government Ombudsman**

PO Box 4771  
Coventry CV4 0EH

Complaints about maladministration on the part of an appeal panel for an Academy, or that an Academy Trust has failed to comply with the Appeals Code in setting up a panel, are investigated by the agency appointed to investigate complaints about Academies on behalf of the Secretary of State. At the date of publication this is the Young People's Learning Agency.

Appellants considering making a complaint can email the Young People's Learning Agency at [academyquestions@ypla.gov.uk](mailto:academyquestions@ypla.gov.uk) or write to:

Young People's Learning Agency  
Cheylesmore House  
Quinton Road  
Coventry  
CV1 2WT

In some cases, parents who are not successful at the appeal occasionally consider applying again for the same school in the same academic year. Unless there has been a significant and material change of circumstances which is relevant to the application for admission, the Authority is not required to reconsider its decision and therefore, parents do not have the right of another appeal.

**ADDITIONAL INFORMATION**

The information contained in this guide is drawn from the statutory provisions on admissions contained in the School Standards and Framework Act, 1998, as amended by the Education & Inspections Act, 2006 and supporting Codes of Practice issued by the Secretary of State. Separate Codes of Practice have been issued by the Department for Education on School Admissions and School Admission Appeals.

Points of contact for further information are given below:-

1 The Local Authority (LA)

Rotherham Metropolitan Borough Council  
Children and Young People's Services  
Riverside House  
Main Street  
Rotherham S60 1AE

2 The Diocese of Sheffield Education Department (Church of England Schools)

Diocesan Church House  
95/99 Effingham Street  
Rotherham S65 1BL

3 The Diocese of Hallam Schools Department (Roman Catholic Schools)

St Charles Street  
Sheffield S9 2ER

4 The Department for Education

Sanctuary Buildings  
Great Smith Street  
Westminster  
London SW1P 3BT

## **APPENDIX A**

### **Limits to Infant Class Sizes**

#### **Statutory matters to be taken into account by the Appeal Panel**

Limits on class sizes imposed by law mean that, subject to certain limited exceptions, infant classes in Foundation Stage 2/Reception, Year 1 and Year 2 (5,6 and 7 year olds) may not contain more than 30 pupils with a single teacher. Because of this legal requirement, admissions authorities will not be able to admit a child to an infant class if to do so would result in a class size of above 30 pupils.

The scope for Admissions Appeal Panels to uphold an appeal against non admission has been limited where the admissions authority has refused admission on class size prejudice grounds. For this type of appeal, the two stage decision making process set out elsewhere in this document **will not apply**. The appeal is simply a 'review' of the admission process and the Panel will only be able to uphold an admission appeal if:-

- The decision that class size prejudice would arise was not one which a reasonable admission authority would have made in the circumstances of the case. The circumstances which may be considered, include the school's or LA's admission policy, the internal organisation of the school and its ability to accommodate pupils in compliance with the class size limit. However, the circumstances of individual children cannot be considered.
- The child would have been offered a place if the admission arrangements had been properly administered.

**Unless a parent/carer can successfully prove either of the above, the appeal will fail. You are therefore urged to bear this information in mind if a place at a school has been refused because of class size legislation.**

## **APPENDIX B**

### **Co-ordinated Admission Arrangements**

The Local Authority in Rotherham co-ordinates admission arrangements with all other admission authorities, particularly those in South Yorkshire, (Barnsley, Doncaster and Sheffield), Derbyshire and Nottinghamshire.

The co-ordinated schemes for admission to primary and secondary schools are designed to enable you to apply for any three schools in Rotherham, and/or outside Rotherham, including voluntary aided schools, the Trust School and Academies and to receive a single offer of a school place where your child is eligible.

The appropriate admission authority will determine whether or not there is a place for your child at each of the schools you have stated on the Common Application Form. For non-community schools (church voluntary aided, the Trust School or Academies) it is the Governing Bodies who are the admission authority and they make decisions on eligibility for potential offers. The L.A., on behalf of the appropriate admission authority, issues the letter informing you of the decision and your right of appeal.

### **Reception/Foundation Stage 2 and Year 3 (at a separate Junior School)**

We co-ordinate admission arrangements with all other admissions authorities for admissions to Reception/Foundation Stage 2 and Year 3 (at a separate Junior School). It will mean that every parent of a child resident in Rotherham who has applied for a school

place, including the voluntary aided schools and academies will receive a single offer of a primary school place on the same day from the Authority.

The appropriate admission authority will determine whether or not there is a place for your child at each of the schools you have stated on the Common Application Form. For church voluntary aided and academies it is the Governing Bodies who are the admission authority and they make decisions on eligibility for potential offers. Again, the L.A., on behalf of the appropriate admission authority, issues the letter informing you of the decision and your right of appeal.

### **Information on Appeals regarding Co-ordinated Admissions**

A full copy of the Co-ordinated Schemes for the Admission Arrangements for Primary and Secondary Schools and the Admission to Primary and Secondary School booklets are available upon request from the Admissions Team on 822647 or 822508. It is also available from [www.rotherham.gov.uk/admissions](http://www.rotherham.gov.uk/admissions)

If you have not been offered a place for your child at a school for which you have expressed a preference you have the right of appeal to an independent appeal panel.

### **The reasons for not offering a place at the school(s) for which you have expressed a preference will be one of the following:**

**Reason 1** the number of applications exceeded the admission number for the school. This means the number of applications received for this school was higher than the number of places available in the relevant year group.

For secondary schools the relevant year group is Year 7. For primary schools the relevant year group is Reception/Foundation Stage 2 and for separate Junior Schools the relevant year group is Year 3.

The admission criteria were applied and your application for your child was refused, because to admit any further children above that number would prejudice the provision of efficient education or the efficient use of resources. There is another factor to take into account in terms of admissions and this relates to limits to Infant Class Sizes. Limits on class sizes imposed by law mean that subject to certain limited exceptions, infant classes in Foundation Stage 2/Reception Year 1 and Year 2 (5, 6 and 7 year olds) may not contain more than 30 pupils with a single teacher. See Appendix A for further details.

**Or;**

**Reason 2** you were offered a place for your child at another school under the co-ordinated scheme. This means you were not offered a place for your child at this school because you were offered a place at a higher ranked school in accordance with the Authority's co-ordinated scheme for admission to school.

**Or;**

**Reason 3** you may also wish to appeal against the school allocated if your child was not eligible for a place at your preferred school(s).

### **Please note**

If you intend to appeal for a place at a school ranked lower than the one for which you have received an offer for your child, please check with the Admissions Team before you decide to submit an appeal because there could still be places available at that school. This means you could be offered a place for your child at the school and therefore, would not have to submit an appeal.

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL LOCAL AUTHORITY**

**NOTICE OF APPEAL FOR ADMISSION TO SCHOOL**

If parents/carers wish to appeal against the decision of the Authority in the case of Community and Controlled schools and the Governing Body in the case of Voluntary Aided Schools, the Trust School and Academies they must do so in writing. Parents/carers wishing to exercise this right may use this form. Grounds for appeal should be provided on the **back of this form** (the reasons why a place at the preferred school should be given). Please complete the form in block capitals.

**NAME OF CHILD** (in whose name the appeal is made)

.....

**DATE OF BIRTH** .....

**ADDRESS** .....

.....

**POSTCODE**.....**TEL NO.** .....

**PRESENT SCHOOL OR**.....  
**NURSERY/PRE-SCHOOL PROVIDER**

**ALLOCATED SCHOOL**.....

**SCHOOL PREFERRED** .....

**Declaration**

I, the undersigned, being the parent/carer of the child named above, wish to appeal against the decision of the Admissions Authority not to allocate a place at the preferred school for my child. I declare that the information provided on this form is true and constitutes the grounds for this appeal.

Signed.....Date .....

Full Name (in block capitals).....(Mr/Mrs/Miss/Ms/Other)

This form must be completed and returned within twenty-one school days of receipt of written confirmation of the preference being refused to:-

**The Appeal Clerk**  
**Legal and Democratic Services**  
**Town Hall**  
**The Crofts**  
**Moorgate Street**  
**Rotherham**  
**S60 2TH**

Please note if your address has changed since you completed the Common Application Form you will need to provide proof of your new address.

A separate Notice of Appeal must be completed for each school you intend to appeal for.

**PLEASE STATE BELOW YOUR GROUNDS FOR APPEAL AND SUPPORTING INFORMATION**

(Continue on a separate sheet if necessary)

All supporting medical and other evidence **MUST** be attached to this form. Without appropriate documentary evidence to support such reasons for attendance at the preferred school being essential, it will be difficult for these to be taken into account by the appeals panel.