

## CHIEF EXECUTIVE'S DEPARTMENT SCHOOL

### ADMISSION APPEALS & APPEAL FORM GUIDANCE NOTES

This guidance is intended to be read alongside the admission appeal form to provide parents with guidance in completing the appeal form and information relating to the admission appeal process. The guidance applies primarily to appeals against the decision of the local authority to admit your child to a school however, some information is also included which will be applicable to appeals against the decision of a governing body of a voluntary aided school or foundation school or of an academy not to admit a child.

***We would strongly advise all parents to carefully read this guidance before completing and submitting their appeal form.***

#### **YOUR RIGHTS**

Parents have the right to appeal if they do not accept the decision of an admission authority not to offer a place at a particular school. The admission authority may be the local authority, the governing body of a school or an academy depending on the type of school that has been applied to. Independent Appeal Panels ("IAP") will be set up to hear appeals relating to admission and the local authority, governing body or academy will have to abide by any decision that the IAP reach.

IAP and appeals within Leicestershire County Council are administered by the Legal Services Department on behalf of the Director of Law and Governance. They are not administered by the part of the local authority which is responsible for education or the allocation of school places. The County Council is responsible for any appeal in relation to a community or voluntary controlled school. Where an appeal is in relation to an academy, foundation school or voluntary aided school the responsibility for arranging an IAP rests with that school/academy. However, in some instances Legal Services may be asked to make the necessary arrangements in relation to an appeal, and to

**convene an IAP, on behalf of the governing body of a school or academy. For the purposes of this guidance, any reference to admission authority is intended to relate to the local authority however much of it will also be relevant to appeals where a governing body or academy are responsible for their own admissions and appeals. *Where you wish to appeal against the decision of the governing body of a foundation school or voluntary aided school, or of an academy, not to admit your child, then you should contact that school/academy regarding their appeal process in the first instance.***

The IAP that will look at your appeal will usually consist of three members, although in some cases they may be five. At least one of the members will be a lay person which will be a person without personal experience in the management of any school or the provision of education in any school (except as a school governor or in another voluntary capacity). There must also be a person on the IAP who has experience in education and is familiar with the educational conditions in Leicestershire or who is a parent of a pupil registered at school. It is important to note that the IAP are

completely independent of the admission authority and the school to which your appeal relates. No member of the IAP will have had anything to do with the decision against which you are appealing or any connection to the school you are appealing for. These arrangements are in accordance with the requirements set out within the School Admissions (Appeals Arrangements) Regulations 2012 and the Department for Education's "School Admission Appeals Code" ("the Appeals Code"). A copy of the code can be downloaded from [www.gov.uk/government/publications/school-admissions-appeals-code](http://www.gov.uk/government/publications/school-admissions-appeals-code).

At the hearing, a clerk will also be present to act as an independent adviser to the IAP and this will usually be an officer from Legal Services. The clerk's role is primarily to provide independent advice on procedure and admissions law and to keep an accurate record of proceedings. It will also be the clerk that writes to you once an IAP has made a decision on your appeal to confirm that decision and to explain the reasons for it.

## **THE APPEAL FORM AND WHAT TO DO WITH IT**

The Appeals Code states that that your appeal must be in writing and must state why you are appealing. The attached form is aimed at finding out some basic information about you and your child and your reasons for appealing. Further information regarding your reasons for appealing is set out below.

If you wish to appeal, you should complete the form giving as much information as possible and send the completed form so that Legal Services receive it within the specified time limits. Further information regarding these time limits can be found on the County Council's website or you can contact the Customer Service Centre on 0116 3056684. For voluntary aided or foundation schools or academies you should contact that school for information regarding their appeals timetable.

When you send the appeal form you should also include any documentation that you wish to be considered in support of your appeal. We recommend that you send anything you think may help your appeal at this time although all documentation should be sent to Legal Services no later than three working days prior to the hearing. Whilst you are able to submit documentation at any time up to (or during) the IAP hearing, if you do provide documentation later than three working days prior to the hearing then it will be up to the IAP as to whether they will take such documentation into account. Parents should also note that if they do provide a large quantity of documentation at a late stage (even if it is more than three working days) then it may be necessary for the hearing to be adjourned to a later date.

## **HOW THE APPEALS ARE HANDLED**

When you have submitted your appeal, Legal Services will request paperwork to be provided from the relevant admission authority setting out their case in writing. This will then be sent to you and, from this, you will then be able to see the detail as to why your application for a place was unsuccessful and why the admission authority is unable to admit any more children. You will also be notified of the date and time that the IAP will meet in order that you can make any necessary arrangements to attend the hearing if you wish. There is no obligation on you to attend an IAP hearing however it can be helpful for IAP's to hear your reasons for appealing in person and to ask you questions to ensure that they have all the information that they need.

A few days before the IAP hearing to discuss your appeal, each member of the IAP will be sent a copy of your completed appeal form together with any other supporting documents which you may have sent and a copy of any evidence submitted by the

admission authority. The IAP will review this documentation in advance of the hearing and, in doing this, we have found that parents do not need to go over everything they have written but can focus on their important points. At the same time you will be sent details of the identity of the IAP members. Please check this information on receiving it and if you know any of the members of the IAP please contact Legal Services immediately as it may be necessary to identify another panel member to attend for your appeal.

The emphasis on the appeal hearing is informality although the IAP's are required to follow certain procedures by law. Further information on these procedures can be found in the Appeals Code. The IAP hearing will consist of a presentation by or on behalf of the admission authority following which you and the IAP will have the opportunity to ask questions of the admission authority. After this, you will then have the opportunity to tell the IAP about your reasons for appealing and both the IAP and the admission authority will also have the opportunity to ask you questions about what you say. You and the admissions authority representative will have the opportunity to sum up your position at the end of the hearing if you wish to do so.

IAP hearings are held in private and we regard them as confidential. As such, IAP hearings are not open to the public or press. The key aim of these hearings is to give every parent a fair opportunity to put their point of view to the IAP. Appeals will usually be heard at County Hall and you will normally be told at least two weeks in advance when your appeal will be considered, although you may be asked to agree to shorter notice in some circumstances.

Often there are a number of appeals for the same school. In that case, we try to arrange for the same IAP to deal with all the appeals for that school where possible. If there are a lot of appeals for the same school, the IAP will probably have to meet on more than one day but, in any event, it will not reach a decision until it has listened to all those appeals.

Where an IAP is handling more than one appeal, we have found that it helps all concerned if appeals are looked at in groups. In this instance, the IAP will hear the case on behalf of the admission authority with all parents present. By doing it in this way, we can save everyone's time and we believe that the parents involved actually benefit because they can help each other in asking questions of the admission authority representative and in getting their views across to the IAP.

To ensure that parents are able to speak to the IAP without other parents being there **we arrange hearings so that parents will be given the opportunity to tell the IAP about** their particular case on an individual basis. At this stage in the hearing, only the IAP, clerk and admission authority representative will be in the room although the IAP will not make any decisions until it has heard each parent's case.

### **REASONS FOR APPEALING**

The appeal hearing is your chance to put forward your views and to ask questions. But there is more to it than that – as stated above, we will send to each member of the IAP, in advance of the hearing, copies of anything you send us to support your appeal. In this way the IAP will know why you are appealing.

We would therefore recommend that you complete section 5 of the appeal form as fully as you can. In writing down your reasons for appealing, you ought to bear in mind the following points:-

- Unless you tell us about it, neither we nor the IAP will know about what you have said to the admission authority in earlier stages of the allocation process. We have had nothing to do with your case before now and it is up to you to put forward all your points now, even though you may have covered them all before with the admission authority. If you do have any documentation which supports or proves your reasons for appealing then we would recommend you provide these when submitting your appeal.
- If you enclose original documents with the appeal form and you would like them back, please tell us and we will copy them and return them to you either straight away or after the IAP has met.
- The IAP may decide that it should allow some but not all the appeals that it hears for a particular school. The IAP will form its own view of any case and may have to decide between individual cases. It will consider the circumstances of individual children in detail and with care, based on all the information put before it. You should therefore ensure that you cover any points which you feel will convince the IAP to allow your appeal and back that up with documentation where you are able.
- It is up to the IAP to decide which cases it hears are to have priority. The IAP does not have to apply the same tests and criteria as the local authority in deciding priorities and can adopt a completely different test if it wishes. As a result, just because your case might meet some of the priority criteria set out within the local authority's admissions policy this does not mean that your appeal will succeed, although it would obviously make sense to draw the IAP's attention to it.
- Where the appeal is not an infant class size appeal\* then the IAP will consider the following:
  - (i) whether the admission arrangements complied with the mandatory requirements of the School Admissions Code and the School Standards and Framework Act;
  - (ii) whether the admission arrangements were correctly and impartially applied;
  - (iii) whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources.

Where the IAP find that the admission arrangements did comply with the mandatory requirements, they were correctly and impartially applied and that prejudice would be caused through the admission of additional children, the IAP will then have to balance the prejudice to the school against the reasons that you put forward for expressing a preference for that school. More information can be found within the Appeals Code.

\*For further information regarding infant class size appeals, please see below.

### **ATTENDING THE APPEAL**

If you say that you wish to attend the IAP hearing and then do not come to the hearing, the IAP will decide your appeal in your absence on the basis of any written information you may have sent us beforehand. Further information regarding written appeals is provided below.

If you do attend then you may wish to be accompanied by a representative or supporter. If your representative or supporter is in fact your spouse or partner living at the same address you do not need to complete the address details in section 6 of the appeal form.

You may wish to be "represented" at the hearing, that is, for someone else to speak and ask questions for you at the IAP hearing. If you are represented, your representative can tell the IAP about your situation although you will still need to answer questions. You will, of course, have to pay the costs of any representation. In our experience, it is not usually necessary for parents to be represented but it is entirely your choice. If you wish your appeal to be handled in this way, please indicate this in section 6 of the appeal form and insert your representative's address details in order that we can send copies of all letters to your representative.

### **WRITTEN REPRESENTATIONS**

It helps the IAP if you can attend the hearing to put your case because the IAP may wish to ask you questions on what you have written. However, you do not have to attend. The IAP can, if you wish, decide your appeal on your written comments and the comments of the admission authority. The fact that you are not present when the IAP looks at your case will make no difference – the IAP will be advised that they must give equal attention to all appeals whether or not the parent or guardian is there.

If you wish to have your appeal dealt with in this way, please indicate this in section 6 of the appeal form.

### **SPECIAL RESTRICTIONS ON APPEALS FOR INFANT CLASSES WITH 30 PUPILS**

From September 2001 class sizes for 4 to 7 year olds must not exceed 30 pupils per qualified teacher. The letter confirming the decision not to admit your child to a particular school should make it clear whether this has been for reasons relating to infant class size. Appeals where this is relevant are referred to as infant class size appeals and, in these cases, you should be aware that the power of the IAP to admit your child is extremely limited. It is very difficult for parents to succeed in such an appeal. Whilst we do not wish to discourage parents from appealing in such circumstances we do believe that it is important that parents are aware of the limited circumstances in which an IAP may allow an infant class size appeal.

The only instances where an IAP can allow an infant class size appeal are where it decides that:

- The admission of an additional child/additional children would not breach the infant class size limit; or
- The admission authority's 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
- The decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

If the IAP is not satisfied that these criteria have been met then it has no choice but to dismiss an appeal.

If your appeal is to be heard on the basis of infant class size then you will usually be sent more information about the process in advance of the hearing.

## **FURTHER COURSES OF ACTION**

The IAP is the last stage in the admissions process and any decision reached by the IAP will be binding on you, the local authority, the admission authority and a school/academy. However, there are some further courses of action that can be considered.

Where a school is a local authority maintained school (which includes community schools, voluntary controlled schools, voluntary aided schools and foundations but **not** academies) and you feel that there has been an error in the way your appeal has been handled then you can make a complaint to the Local Government Ombudsman, further details of which can be found on the LGO website: [www.lgo.org.uk](http://www.lgo.org.uk). Alternatively, you can also make a complaint to the Secretary of State for Education.

In the case of academies you are able to make a complaint to the Education Funding Agency which handles such complaints on behalf of the Secretary of State for Education. Further details and guidance regarding how to complain can be found on the .GOV.UK website at the following address: [www.gov.uk/academy-admissions](http://www.gov.uk/academy-admissions)

Please note that these courses of action are not simply where you are unhappy with any decision that an IAP reaches but where you feel that there has been maladministration (a failure to follow proper procedures) in the way your appeal has been dealt with.

In the case of maintained schools and academies, you are also able to apply to the court for a judicial review of the IAP's decision where you consider that there has been an error in law. This is a very complex process and therefore if you are considering taking this course of action we would strongly recommend that you seek independent legal advice.

## **WHAT TO DO WITH THIS FORM - AND BY WHEN**

If you wish to appeal you should complete the appeal form, sign it and send it as soon as possible to the Clerk to the Independent Appeal Panel at the address at the bottom of the form. The Appeals Code sets out certain time limits within which appeals should be received. Details of these can be obtained from the relevant admission authority.

In respect of appeals against a decision of the local authority, details of the applicable time limits can be found on the County Council's website or by contacting the Customer Service Centre on 0116 3056684. Your appeal form **must** be received by the Legal Services Department no later than close of business on that day. Whilst appeals received after this deadline will still be accepted, it may mean that there is a longer delay until your appeal is heard and/or that your appeal will be heard after all of the other appeals for that school. We would suggest that you use first class post to avoid any delay or alternatively deliver the form by hand to County Hall.

If you have any access requirements in your attendance at the appeal hearing or if you require further copies of these notes, larger print, braille or audio tape formats please telephone 0116 3056684.