



## **A guide for parents/carers who wish to appeal for a place in a Brent Community school**

### **WHAT DOES THE LAW SAY?**

The School Standards & Framework Act 1998 gives parents the right to express a preference as to the school they would like their child to attend. The admission's authority must comply with this preference **unless** it would prejudice the provision of efficient education or the efficient use of resources. Parents may appeal against any decision of the admissions authority to an Appeals Panel. In Brent we have Academies, Voluntary Aided, Foundation and Community Schools. The admissions authority for an academy school is the Academy Trust and for voluntary aided school is the Governing body of the school and for community schools it is the Local Authority.

### **WHY HAVE I NOT BEEN GIVEN A PLACE AT ANY OF MY PREFERRED SCHOOL(S)?**

When the year group for your child in school of your preference has no vacancy, that is when the school has reached its published admission number, it is not possible for the school or the Local Authority to offer you a place. The outcome letter you have received gives the reasons why it has not been possible to offer a place at your preferred school(s). Where the Local Authority is unable to offer a place at one your preferred schools through the co-ordinated process it will offer you a place at the nearest school to your home with a vacancy. The Local Authority considers the school where your child has been allocated a place a reasonable offer, in that it is able to accommodate your child without prejudicing the provision of efficient education or the efficient use of resources.

### **HOW CAN I APPEAL?**

You should complete the **Brent Community School Appeal Form** and return it by the date specified to:

**Partnership, Planning and Performance – School Admissions**  
**P O Box 1057**  
**Wembley**  
**HA9 6BZ**

You should give as much written detail as possible about why the school allocated is not a reasonable offer and your reasons for wanting a place at your preferred school. You should also submit any other documentation that you feel would be helpful to your case. Copies of all the papers provided will be sent to the Appeal Panel Members before the Appeal Hearing. You will also be sent a copy of all the papers circulated. If you want to appeal an

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Academy, Voluntary Aided or Foundation School please contact the school directly.

### **WHAT HAPPENS NEXT?**

You will receive a letter from the Clerk to the Independent Appeals Panel acknowledging your appeal and confirming the place, date and time of the appeal hearing. The letter will also give details of the appeals procedure. You will be invited to attend the appeal to put your case in person. If you wish, you may also be accompanied by a friend or have a representative present your case for you or have a witness attend. If you cannot attend the appeal hearing, your case can be heard in your absence. The Appeal Panel will consider your written representations and the case presented by you at the appeal before coming to a decision.

### **SHOULD I BRING MY CHILD TO THE APPEAL HEARING?**

There are no childcare facilities at the Brent Civic Centre and it is therefore advisable to avoid bringing children to the appeal.

### **WHAT HAPPENS IF I NEED AN INTERPRETER AT THE APPEAL?**

You may have an interpreter at your appeal hearing. Please confirm on your appeal form which language is required.

### **WHAT HAPPENS IF OTHER PARENTS ARE APPEALING FOR PLACES IN THE SAME YEAR GROUP AND SCHOOL AS I AM?**

Where several parents are appealing for places in the same school, every effort is made to ensure that all these appeals are heard by the same Panel on the same day. Such appeals are known as multiple appeals. However, each case made by a parent is considered individually and the Appeal Panel's decision is made on the merits of that case.

### **CAN I APPEAL FOR MORE THAN ONE SCHOOL?**

Yes, you can appeal for more than one school. You will need to complete a **Brent Community School Appeal Form** for each appeal. Appeals for more than one school are normally considered by different Appeal Panels.

### **WHAT CAN I DO IF I AM NOT SATISFIED WITH THE RESULT OF MY APPEAL?**

The admission appeal procedures are designed to ensure that all parents have had a fair hearing. The decision of the Appeal Panel is binding on the Local Authority and there is no further right of appeal.

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You may complain about maladministration on the part of an appeal panel to the Local Government Ombudsmen (LGO) in respect of maintained schools.

### **Further information about the Local Government Ombudsman**

The Local Government Ombudsman can investigate complaints about maladministration on the part of an appeal panel for a maintained school. A complaint to an Ombudsman is not a further appeal. It must relate to the administration of an appeal rather than the appeal decision. Maladministration covers issues such as failure to follow correct procedures or failure to act independently and fairly. It does not cover the merits of decisions that only the panel has the authority to make. Therefore, generally, the Ombudsman cannot consider whether the appeal panel was correct to uphold or dismiss the appeal.

The Ombudsman is not able to overturn the appeal panel's decision but, where they find that there has been maladministration, they may make recommendations for a suitable remedy. For example, they may recommend that an appeal is reheard by a different panel and with a different clerk.

For further information about the LGO please visit [www.lgo.org.uk](http://www.lgo.org.uk) or you can call the **LGO Advice Team on 0300 061 0614** and make your complaint over the telephone or write to:

**The Local Government Ombudsman**  
PO Box 4771  
Coventry  
CV4 0EH

### **CAN I HAVE A SECOND APPEAL?**

Appellants do not have the right to a second appeal in respect of the same school for the same academic year unless, in exceptional circumstances, the admission authority has accepted a second application from the appellant because of a significant and material change in the circumstances of the parent, child or school but still refused admission.

### **CAN MY CHILD GO ON THE WAITING LIST?**

On receipt of your request for appeal papers, your child's name is automatically put on the waiting list for the school(s) for which you are appealing.

You may also request that your child's name is put on the waiting list for any school in the borough. All you need to do is to write to the **Partnership, Planning and Performance, School Admissions P O Box 1057, Wembley, Middlesex HA9 1HJ** with the name, address and date of birth of your child.

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You will also need to give name(s) of the school or school(s) you are interested in so we can add your child's name to the appropriate waiting lists.

## INDEPENDENT ADVICE

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 independent information and advice about appeals you may contact The Advisory Centre for Education helpline on 0808 800 5793. For further information, visit [www.ace-ed.org.uk](http://www.ace-ed.org.uk).

## Reaching Decisions on Appeals

When considering appeals the Admissions Independent Appeal Panel must follow the two stage decision making process below for all appeals except for infant class size appeals.

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

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.

The panel **must** then decide whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources.

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.

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.

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.

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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**

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.

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.

### **Consideration of prejudice**

Whilst the panel **must** take into account the school's published admission number, the admission authority **must** be able to demonstrate prejudice over and above the fact that the published admission number has already been reached.

The panel **must not** reassess the capacity of the school, but **must** consider the impact on the school of admitting additional children. In reaching a decision as to whether or not there would be prejudice the panel may consider the following factors:

- a) what effect an additional admission would have on the school in the current and following academic years as the year group moves through the school;
- b) whether any changes have been made to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
- c) the impact of the locally agreed Fair Access Protocol;
- d) the impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.

### **Admissions Criteria**

All Community Schools in Brent must follow the oversubscription criteria as agreed by the council. The Local Authority is the admission authority for community schools and administers the application process.

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Schools may not alter the criteria (either by requiring additional information which could not be reasonably inferred from the criteria, or by altering the nature of a particular criterion to reflect local circumstances – e.g. saying nearest to the school instead of in catchment area and then measured by the shortest route using public rights of way.)

### **Qualifying Measures**

The SSFA allows admission authorities to refuse admission to a child where they believe that ‘qualifying measures’ would be needed in order to comply with the class size limit.

Qualifying measures are any measures that must be taken in order to comply with the class size limit.

*Examples of qualifying measures could be:*

The need to employ an additional teacher;

The need to construct an additional classroom;

The need to re-structure the way education is provided in the school (mixed age teaching)

Qualifying measures do not have to be measures that the school must take immediately. If they are required now, or will be required in future years in order to meet the class size limits then this will be sufficient for the panel to consider.

## **Infant Class Size Appeals**

### **Two stage process**

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

16 The School Admissions (Infant Class Sizes) (England) Regulations 2012.

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.

Panels **must** follow the two stage decision making process below when considering infant class size appeals.

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

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

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- 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.

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;
- 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.

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.

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.

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