

GUIDE TO SCHOOL ADMISSION APPEALS

For parents/carers seeking to appeal for a place at a
Southwark primary community school

September 2022 intake

Please note that due to Covid-19, the Department for Education has published [updated guidance](#) relating to the school admissions appeals process and temporary regulations through the [School Admissions \(England\) \(Coronavirus\) \(Appeals Arrangements\) \(Amendment\) \(No. 2\) Regulations 2021](#) which apply until 30 September 2022.

The [temporary regulations](#) and [updated guidance](#) only apply where it is not reasonably practicable to comply with the [School Admission Appeals Code](#) for a reason relating to the incidence or transmission of Covid-19. The temporary appeal arrangements are available to use by admission authorities when they are needed. When they are not, admission authorities must comply with the [The Schools Admission \(Appeal Arrangements\) \(England\) Regulations 2012](#) and the [School Admission Appeals Code](#).

This document relates to appealing against the decision not to offer your child a place at a preferred Southwark primary community school only.

Should you wish to appeal for a place at a Southwark non-community primary school i.e. an academy, foundation, voluntary aided or free school or a school in another borough you must contact those schools or borough directly for further information as they administer their own appeal hearings.

If it has not been possible to offer your child a place at your preferred school/s that you named on your admission application, you have the legal right to appeal against the decision and have your case heard by an independent appeal panel.

1. Making the decision to appeal

When deciding whether to appeal, you can be assured that accepting a place at another school will not affect your right to appeal for a place at your preferred school/s nor will it affect your child's place on the waiting list for these schools. As there is no guarantee that your appeal will be successful we strongly advise families to make arrangements for a place at an alternative school in the meantime.

You may also find it useful to view our [‘Starting primary school in Southwark 2022/23’](#) brochure when considering whether to appeal. The oversubscription criteria for all of Southwark's community and non-community schools are published within the brochure.

2. Completing and returning the appeal form

- You can download a copy of [Southwark Council's community schools' appeal form](#)
- If your appeal is in relation to more than one Southwark community school or child, you must complete a separate form for each school or child you wish to appeal for.
- Please complete all the details required on the form, including your child's full name and details and your contact details.
- When completing the form you should also try and include as much information as possible and the reasons for wanting your child to attend that particular school. We recommend that you consider Southwark's community school's admission arrangements for the September 2021 intake which can be found in the [‘Starting primary school in Southwark 2022/23’](#) brochure.
- Where your child has been refused admission to a school on the grounds of infant class size, the appeal panel can **only** consider the following matters in relation to your appeal:
 - (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.

If you are making an infant class size appeal and you do not refer to these specific issues in your appeal form, we will contact you when we receive your form and ask you to provide grounds for your appeal under these areas. Please see paragraph 6.1 below for further information on infant class size appeals.

- Any information you previously submitted to support your original application for your child's school place will be provided to the appeal panel, along with a copy of your application.
- The appeal panel can only consider the information you submitted at the time when the decision to refuse a place was made. The appeal panel **cannot** consider any evidence in support of your application for a school place that you did not submit before the admission decision was made. However, the panel may consider evidence that could reasonably have been available to the admission authority at the time of taking the decision to refuse admission to your child.
- The appeal panel will also consider any new material you provide in support of your view that the admission arrangements were not properly applied or that the admission authority acted unreasonably.
- If you have any additional supporting documents which you feel are relevant to your case, you should submit these with your appeal form. Do not delay in returning your appeal form as you can submit additional information at any time up to the hearing. Please remember if you provide information too close to the hearing, the panel may decide to adjourn to allow all parties time to consider it.
- Once you have completed the appeal form/s please return it by post or email to Sharon Mair (Independent Appeal Clerk) by **11.59pm on 20 May 2022**. The appeal form includes the address where the completed appeal form should be sent to.
- When we receive your completed appeal form you will be sent an acknowledgement letter or email. If you do not receive this, please contact Sharon Mair (contact details can be found on the appeal form) to ensure we have received your form.

3. What happens before the appeal hearing?

- At least **10 school days** before the appeal hearing (unless you have agreed to a shorter notice period) we will send you a letter or email giving notice of the date, time and venue for your appeal hearing. We will also inform you of the independent appeal clerk's name, people who will be present at the hearing and the names of the independent appeal panel members.

- The clerk will then send you a set of case papers **7 working days** before the hearing. These are the same papers that the panel members receive - they do not receive any papers that you are not sent.
- The case papers include:
 - information on your original application
 - your completed appeal form
 - any additional documents you have submitted
 - the admission authority's written statement
 - information on admissions to the school

Please bring these case papers with you to the hearing.

- When you receive the case papers, please contact the clerk to confirm who will attend the hearing. We strongly suggest that you attend the hearing, as it will allow you to ask any questions you may have and the panel members can also ask you questions.
- You may bring a friend or adviser with you to the appeal hearing. This person can come into the hearing with you and can help you present your case - this can include a locally elected politician or social worker.
- It is up to you whether or not to bring your child to the appeal hearing. However, we advise against this as it may be uncomfortable or distressing for the child if they are the subject of the appeal and they might distract you and others from the proceedings. If you are unable to arrange childcare for younger children, we suggest you bring someone with you who can wait outside the meeting room with your child(ren).
- If you cannot attend on the date or time given for your appeal you should contact the appeals administrator or the independent appeals clerk as soon as possible. Please note that it may not be possible to offer you an alternative date and, in these circumstances, the appeal will go ahead and be decided on the written information submitted.
- You should let us know as soon as possible if you decide to withdraw your appeal for any reason, or are offered a place at the school you are appealing for. You should also tell us if you decide not to attend your appeal hearing.

4. Who is at the hearing?

- The panel considering your appeal is made up of three members and includes at least one lay representative and at least one representative with educational experience or a parent of a child in school. People with any connection to the school concerned will not be selected as panel members.
- A clerk is appointed to take notes and to advise the panel on issues of procedure and law.
- A representative of the admissions authority will also attend the hearing to present their case. At no time will they be with the panel when you are not there.

- Sometimes an observer will be present, for example, an individual training to become a panel member, or a representative of the admissions authority. The observer will take no part in the hearing. You will be asked if you object to the observer being present during your appeal hearing.

5. What happens at the hearing?

- Where there are a large number of appeals for a particular school to be considered, the hearings will be grouped. This means that for the first stage of the hearing (the admission authority's case) you and several other appellants could be before the panel at the same time. One set of appellants will remain with the panel for the second stage (your own case) and the others will wait outside until it is their turn to speak to the panel.
- The chair of the panel will ask you and everyone else present to introduce themselves. S/he will then check that you are aware of the procedure and will confirm the legal status of the panel.
- The admission authority's representative will then present their case to the panel. They should explain the admissions criteria, how the places were allocated and why there would be a breach of the infant class size limit if any additional pupils were to be admitted to the school.
- You can ask the representative(s) any questions you have about the admission authority's case and the panel may also ask the admission authority questions.
- During the next stage of the hearing you will be the only appellant with the panel. You will then be asked to explain to the panel why you want your child to go to this particular school. Even if you have given a full written set of reasons, it helps if you briefly go through the main points again (you may find you think of other details to tell the panel). Remember, this is your only opportunity to explain your case. You should tell them anything you think may be relevant, no matter how unimportant it may seem to you.
- The representative of the admissions authority and the panel may ask you any questions.
- The admission authority will have the opportunity to summarise their case.
- You will have the opportunity before the end of the hearing to summarise your case.
- Before you and the representative of the admissions authority leave the room please ensure you have said everything you want to say.

6. How does the appeal panel reach their decision?

In coming to its decision the appeal panel can only consider the material that was available to the admission authority at the time when it made its decision, or material which would reasonably have been available to the admission authority if it had acted reasonably. The appeal panel can also consider any fresh material you wish to submit to prove that the arrangements had not been properly implemented.

6.1. Appeals for children entering infant classes (*'Infant class size appeals' – Reception, Year 1 and Year 2*)

Legislation limits the size of an infant class (Reception, Year 1 and Year 2) to 30 pupils per school teacher. The appeal panel must follow a two stage decision process when considering infant class size appeals.

The first stage

- Where your child has been refused admission to a school on the grounds of infant class size, an appeal panel **may** only uphold an appeal at the first stage where:
 - (a) it finds that the admission of additional children would not breach the infant class size limit; or
 - (b) it finds that the admission arrangements did not comply with admissions law or were not 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.
- The appeal 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*
 - (c) it finds that the decision to refuse admission was one which a reasonable admission authority could have made.

"Reasonableness"

For the appeal panel to determine that an admission authority's decision to refuse admission was unreasonable, it will need to be satisfied that the decision to refuse to admit your child was "perverse in the light of the admission arrangements". This means that the decision 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". This is a high threshold.

The second stage

If the appeal has not been dismissed at the first stage, the appeal panel will go on to consider yours and any other appellant's case and decide which, if any, to uphold. Where the school could admit a certain number of children without breaching the infant class

size limit or could take measures to avoid breaching the limit, the panel must uphold appeals of at least that number of children.

6.2 Appeals for all other children

Appeal panels must follow a two stage decision making process for all other appeals which are not made on the grounds of infant class size.

The first stage

- The appeal panel **must** consider the following matters:
 - 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 appeal 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 any aspects of the admission arrangements that do not comply with admissions law.
- The appeal 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.

The second stage – balancing the arguments

If the appeal has not been dismissed at the first stage, the appeal panel will proceed to the second stage.

The appeal panel **must** balance the prejudice to the school against your reasons for wanting your child to attend the school. The appeal panel will take into account your reasons for expressing a preference for the school, including what the school can offer your child that the allocated or other schools cannot. If the appeal panel considers that your case outweighs the prejudice to the school it **must** uphold the appeal.

7. How will I know the appeal panel's decision?

You will be sent a letter confirming the decision and explaining the reasons for it. The letter will be sent to you as soon as possible, but in any event, five school days of the hearing, wherever possible. The independent appeal clerk will advise you of the likely timescale at the hearing.

8. What happens after the appeal?

- If your appeal is successful you will have a place at the school for your child. The school will contact you to make arrangements for your child's admission.
- If your appeal is unsuccessful you do not have a further right of appeal for the same year group (you can apply, and then appeal if unsuccessful, again next year). Your child's name will remain on the waiting list.
- If you feel that the procedure was not properly followed by the appeal panel, or you consider the decision was unreasonable in law you may wish to consider making a complaint to the Local Government Ombudsman. The Clerk will be able to give you further information.

9. Further information and contact details

- If you have any questions or need further information on the admission appeal process, contact Sharon Mair (Appeal Clerk) by [email](#)
- If you need information on the availability of places at other schools in the borough or the waiting list position of your child, contact the School admissions team by email at schools.admissions@southwark.gov.uk
- [Southwark Council's website](#) has information on schools, admissions and appeals
- Department for Education [School Admission Appeals Code](#)
- [The Advisory Centre for Education \(ACE\)](#) provides independent advice for parents, including a booklet "Appealing for a School", which can be downloaded from their website