



BEDFORD BOROUGH COUNCIL ADMISSION APPEALS SERVICE

A GUIDE TO ADMISSION APPEALS (INCLUDING INFANT CLASS SIZE)

This guidance applies to all appeals – transfer, starting school and in-year

For further information

Please contact

Tel: 01234 228523

or

Email: schoolappeals@bedford.gov.uk

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Introduction

The School Standards and Framework Act (SSFA) 1998, as amended by subsequent legislation and case law, and the Codes on School Admissions and School Admission Appeals produced by the Department for Education (DfE), govern all school admission appeals/reviews. **The Panel Members have a statutory duty to act in accordance with the two Codes.**

The legislation requires all Admission Authorities (AAs) to make arrangements for enabling parents to appeal against decisions made by AAs as to the school at which education is to be provided for their child.

Within the borough of Bedford, the Local Authority is the AA for community and voluntary controlled schools and decides which children will be admitted. With foundation and voluntary aided schools, the school's Governing Body is the admission authority and decides which children will be admitted. For academies, the Academy Trust is responsible for admissions.

This guidance explains how the process works and will help you to prepare your case against an AA's decision not to offer your child a place at your preferred school(s).

Below are the most frequently asked questions that will help you to:

- Understand the process;
- Know what will happen at a hearing;
- Understand how Independent Panels make their decisions.

The following information explains how to appeal and how the appeal process works. **Please read this carefully before filling in your appeal form.**

1. Your right to appeal

All parents have the right to appeal if they are not offered a place at their preferred school (or schools).

If you choose to appeal, a Panel of trained, independent volunteers (who will have no connection to the school that you are appealing for) will hold a hearing to consider your case.

2. How to appeal

To appeal please ensure that all sections of the appeal form are completed. Incomplete forms will be returned to the appellant and this could cause a delay to your hearing being heard. You can appeal for each school that you applied for and were not offered a place at. Please use a separate form for each school. You can accept a place for your child at another school while you appeal for the school (or schools) you prefer. This will not affect the Panel's decision. If you are appealing for more than one school, we cannot guarantee that these will all be heard on the same day.

You must return the form(s) by the deadline to:

Democratic & Registration Services
Room 326
Bedford Borough Council
Borough Hall, Cauldwell Street
Bedford MK42 9AP

You can also appeal on-line, please go to:

http://www.bedford.gov.uk/education_and_learning/schools_and_college/scadem/school_admission_appeals.aspx

If your appeal is received after the deadline your appeal may be heard after others for the same school so please complete your appeal form as soon as possible and within the deadline shown on the appeal form.

Your appeal will be acknowledged by email (unless no email address is provided) or letter within one week of it being received. Please call (01234) 228523 if you have not received an acknowledgement within 2 weeks of sending your appeal.

Data Protection Act 1998

We will hold on file the personal details supplied on the appeal form, or in support of your appeal, in order to process the appeal.

We may share these details internally with relevant officers and will also send them to members of the Independent Appeal Panel.

We will safeguard your details and will not divulge them to any other individual or organisation for any other purpose.

3. Getting help at the Appeal

If you would like a friend, adviser, interpreter or signer to come to the appeal hearing with you for support, they are welcome to attend.

If you do not speak or understand English you can ask a friend or relative to help you explain your case at the hearing, or you can ask us to arrange for an interpreter to attend your appeal hearing. If you need us to book an interpreter for you, please tell us this on the appeal form and specify which language. Please be aware though that if an interpreter is booked for you, and you either do not turn up or change your mind about your hearing and the interpreter still comes to the hearing, there is a possibility that you could be charged the interpreter's costs.

If you have any access requirements or disabilities we should be aware of, please tell us in the access or language requirements box of the appeal form.

4. Preparing for the Appeal

You need to complete all sections of the appeal form. If you would like the Appeal Panel to see any supporting evidence you must collect this yourself. The Clerk to the Appeal Panel will not contact anyone on your behalf and will not accept evidence direct from any third party. You need to collect the evidence and then send it to the Office of the Clerk to the Appeal Panel as soon as possible. For example you might want to submit

- Letters from your doctor if your appeal is on medical grounds
- Letters from your priest or faith leader if your appeal is on religious grounds

5. When to submit evidence

You should normally submit evidence with your appeal form, however if you have additional evidence, it must be submitted by a deadline which will be included in the letter advising you of the date of your appeal hearing. If evidence is received after the specified deadline, it will be up to the Appeals Panel to decide whether this information can be included,

taking into account its significance and whether or not there is a need to adjourn or even postpone the hearing. Therefore, please send all evidence in as a matter of urgency. Evidence cannot be submitted after the appeal hearing.

All evidence should be sent to the Office of the Clerk to the Appeal Panel at the address shown on the appeal form and at the back of this document.

At least five working days before the hearing the Clerk will collect all of the evidence received from you and also from the Admission Authority. This will be copied and copies of all the evidence will be sent to you, the Admission Authority and the Panel Members.

6. Details of the appeal hearing

Offer letters for upper and secondary schools will go out on Friday 01 March 2019. The deadline for lodging appeals will be Friday 29 March 2019 and all upper/secondary appeals have to be heard by Tuesday 18 June 2019. For all middle, lower and primary schools, offer letters will go out on Tuesday 16 April 2019. The deadline for lodging appeals will be Tuesday 21 May 2019 and these appeals have to be heard by Thursday 05 September 2019 (we will however aim to hear all appeals before the end of the academic term, July 2019).

If your appeal is received after the deadline it might not be possible to hear your appeal at the same time as the appeals that were received on time.

If you are appealing for a place in-year, your appeal has to be heard within 30 school days of the date that your appeal form has been received.

Appeals are heard during the working day. They are not heard at weekends or in the evenings and very occasionally during school holidays. We cannot accommodate your working patterns and you may need to book a day's leave from work. If you know that you cannot attend an appeal on certain dates (for example if you are on holiday) please tell us on the appeal form. We will try to avoid hearing your appeal on these dates but **may not** be able to accommodate your request. Please bear this in mind if you are booking a holiday during the school term.

If there is a reason why you cannot attend the appeal on the date given, please call the Office of the Clerk to the Appeal Panel on (01234) 228523 as soon as possible. If you cannot attend, you can have someone else

(i.e., a friend or relative) attend the hearing on your behalf or you can have the hearing go ahead in your absence. It is possible for the hearing to be rearranged to another date, but please be advised that you may not get the revised date straight away.

7. Who are the Appeal Panel Members?

The Panel is made up of three independent panel members. These people are trained volunteers who are independent of Bedford Borough Council and the schools involved. At least one member will have some experience of education (Expert Member - normally a teacher, governor or parent) and at least one member will have never been paid to work in education (Lay Member). One of the Panel Members will chair the appeal hearing. When the Clerk sends you copies of the evidence you will also be notified of the Panel Members who will hear your case.

If you think you know one of the Panel Members who will hear your appeal please call (01234) 228523 immediately.

8. Who will be at the appeal hearing?

The Appeal Panel (three members) will be present; they will listen to both cases. The Panel will make their decisions later in private with a Clerk to advise them.

The Clerk is independent of the Admission Authority but is appointed by the Borough Council. The Clerk is responsible for making sure that the correct procedures are followed and that the appeal hearing is fair. The Clerk does not take part in the decision making process.

The Admission Authority will send a presenting officer to explain their case and to answer any questions that you or the Panel have. If the school is a community or voluntary controlled school the presenting officer will be an officer of the Local Authority, if the school is a foundation or voluntary aided school the Governing Body will send someone to the appeal. For academies, the Academy Trust will send a representative.

You should attend the appeal if at all possible. You can attend with a friend or relative to support you or you can ask someone to go the hearing on your behalf. Remember that if you do not attend the hearing or send someone to attend on your behalf, the hearing will go ahead in your absence and the Panel will make their decision based on the written evidence that you have submitted.

The appeal is designed for the parent to put their case forward as it is the parent who has the right of appeal for the school of their preference

on behalf of their child. There are no child care facilities at Borough Hall and it is not suitable for children to be cared for whilst the hearing takes place. Parents must make alternative arrangements for babies and children to be looked after. **Please do not bring your child or any other child to the appeal hearing.**

Legal representation is rarely needed; if you would like to bring a legal representative to the hearing please let the Office of the Clerk immediately.

9. Will my appeal be heard in private?

Yes, but there are occasions when people observe appeals as part of their training as clerks, Panel Members or presenting officers. The Clerk will inform you before the start of your hearing if this is to be the case, so if you are not happy for an observer to be present, please inform the Clerk.

Appeals are normally heard in private. However, when there are a high number of appeals for one school, the appeals will be heard in two stages. All parents appealing for a place at the school are invited to the first stage, a “grouped hearing”, to hear the case for the Admission Authority and ask any questions they may have about the school case only. Parents will then be given a time to return for their “individual hearing” where the Appeal Panel and presenting officer will hear the parent’s reasons for appealing. No other parents will be present at your individual hearing. Please be aware that the two hearings might not be on the same day.

When you are notified of the date and time for your appeal hearing, you will also be told which arrangements apply to your appeal.

10. What will the procedure be?

The Appeal Panel will decide how it would like to conduct the appeals; normally it follows in this order:

1. The presenting officer will be invited to explain their case (that is, why they have not been able to offer your child a place)
2. You and the Panel can ask questions about the presenting officer’s case
3. You will be invited to explain your case (that is, why you are appealing and why you would like your child to go to this school)
4. The presenting officer and Panel will ask you questions about your case

5. The presenting officer will sum up their case (they cannot mention any new evidence or points)
6. You will sum up your case (you cannot mention any new evidence or points).

If there have been a high number of appeals for the school, points one and two will be carried out in a “grouped hearing” with all of the other parents present. You will not be asked to discuss your individual reasons for appealing with other parents present.

The Panel will try to keep the appeal hearing as informal as possible but it needs to ensure that both parties have a fair chance to explain their case and that the hearing is fair. Due to time constraints there is no facility for parents to make a Power Point presentation or show videos (including on mobile phones)/DVDs during their hearing.

11. How will the Panel make their decision?

The Panel will make their decisions after they have heard all of the appeals for the same school. Where appeals for the same school are heard over two or more days, decisions are not made until after the last appeal is heard. In most situations, however, decisions are made at the end of each session of appeals. No parents will be present and the presenting officer will not be present when they make their decision. The Clerk will be present to record the decision and provide legal advice.

The normal procedure for making decisions is explained below (if you are appealing for a child who is 7 years old or younger, please also read the Infant Class Size section carefully).

The Panel will either uphold your appeal (and you will be able to send your child to the school) or they will dismiss the appeal (and you will not be offered a place at the school).

The Panel will make their decision in two stages:

The Factual Stage

Whether the admission arrangements (including the area’s co-ordinated admission arrangements) complied with the mandatory requirements of the School’s Admissions Code and Part 3 of the School Standards And Framework Act 1998; and whether the admission arrangements were correctly and impartially applied in the case in question.

The Panel must uphold the appeal at the first stage when:

- 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 with the law or had been correctly and impartially applied; or
- It finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources

If there is more than one appeal for the same school the Panel will also have to consider what the impact would be if they upheld all of the appeals.

The Panel must proceed to the second stage where:

- It finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child; or
- 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.

The Balancing Stage

- 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 (grouped) 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 that 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.

12. Infant Class Size Appeals

In relation to infant classes, legislation states that no infant class (infant classes are those in which the majority of pupils will reach the ages of five, six or seven during the school year, normally Reception Year to Year 2) can have more than 30 children in it. If a school exceeds this number they will have to take qualifying measures (employ another teacher and set up a new class to keep class sizes under 30). Other groups (from year 3 onwards) are not affected by this legislation.

When the appeal panel considers an Infant Class Size appeal they can only uphold the appeal in the following circumstances:

- If the admission arrangements did not comply with admissions law and had not been applied correctly and this is the only reason the child was not admitted to the school.
- If no reasonable admission authority could have made the decision not to admit the child (the decision was perverse in the light of the admission arrangements ie. it 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').

In all other cases the appeals must be dismissed.

13. Telling you the result of your appeal

The Clerk will aim to send out the decision letter within five school days after the hearing explaining the result and how the Panel made its decision.

You will not be given the result of the appeal over the telephone, in fax or by email.

If you have not received a letter two weeks after your appeal hearing, please call the Office of the Clerk on (01234) 228523.

14. Further Appeals

Parents 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 parent because of a significant and material change in the circumstances of the parent, child or school but still refused admission.

15. What happens if I am not happy with the result?

The Appeal Panel's decision is final and binding, they cannot review their decision.

Maintained Schools

If you believe that the Appeal Panel acted improperly or unreasonably in handling your case for either a community, voluntary controlled, foundation or voluntary aided school you can complain to the Local Government Ombudsman. The Ombudsman will look at whether the Panel followed the correct procedures. The Ombudsman cannot comment on the Panel's decision or overturn the decision.

The decision can only be overturned in the Courts if the parents or Admission Authority successfully apply for a Judicial Review of the decision.

Academies

Parents can complain to the Young People's Learning Agency in respect of their appeal which was not successful to an Academy. The Learning Agency can consider whether the Appeals Panel was correctly constituted by the Admission Authority and/or whether the Admission Authority acted reasonably in exercising functions in respect of the appeals process.

16. Useful Contacts

Clerk to the Appeal Panel Democratic & Registration Services Room 326, Bedford Borough Council Borough Hall, Cauldwell Street Bedford MK42 9AP Tel: 01234 228523 Email: schoolappeals@bedford.gov.uk Web: www.bedford.gov.uk/appeals	The Local Government Ombudsman 53 – 55 Butts Road Coventry CV1 3BH Tel: 0300 061 0614 Text a call back to 0762 481 1595 <i>(your provider may charge for sending the text message)</i> Web: www.lgo.org.uk
School Admissions Service Bedford Borough Council Borough Hall Cauldwell Street Bedford MK42 9AP Tel: 01234 718120 Email: admissions@bedford.gov.uk	Complaints Against Academies Young People's Learning Agency Cheylesmore House Quinton Road Coventry CV1 2WT Email: academyquestions@ypla.gov.uk
Advisory Centre for Education <i>(a charity providing advice and support to parents on educational issues)</i> 72 Durnsford Road London N11 2EJ Tel: 0300 0115 142 Web: www.ace-ed.org.uk	Child Law Advice <i>(the Child Law Advice Service has operated a telephone helpline offering legal advice to parents, carers and young people for over 10 years)</i> Tel: 0300 330 5485