

**FOUNDATION AND AIDED
PRIMARY & SECONDARY
SCHOOL
ADMISSION APPEALS**

**A GUIDE FOR
PARENTS AND CARERS**

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1.0 INTRODUCTION

This guide relates only to appeals for Foundation Schools and Voluntary Aided Schools. It does not relate to schools outside Lincolnshire. Appeals to these schools should be made to the appropriate Local Authority.

Information on all Lincolnshire secondary schools may be obtained from www.gtsil.co.uk, or the current edition of "Going to School in Lincolnshire". Copies of this are available from:

School Admissions Team
County Offices
Newland

LINCOLN LN1 1YQ.

admissionappeals@lincolnshire.gov.uk

Telephone (01522) 782030

All appeals are conducted in accordance with the School Standards and Framework Act 1998 as amended by the Education & Inspector's Act 2006. The procedures set out in this guide are based upon this Act, advice published by the Council on Tribunals and the Admission Appeals Code of Practice published by the Department for Children, Schools and Families. If you need to see a copy of the 1998 Act, a copy is available for you to look at (but not to remove) from Legal Services at Lincolnshire County Council.

Important - Children with a Statement of Special Educational Needs

The appeals procedure outlined in this guide does not apply to pupils who have a Statement of Special Educational Needs. If your child has a Statement and is not offered a place at your preferred school, the appeal must be heard, in accordance with the Special Educational Needs and Disability Act 2001, by a Special Educational Needs and Disability Tribunal. If you wish to appeal, you should contact the Special Educational Needs Services Group (Tel 01522 553332).

2.0 WHAT IS AN APPEAL?

Sometimes when a parent applies to a school for a place for their child the school may refuse to take the child.

Schools may have to refuse a place because:

1. the school is full
2. the school has received more applications than there are places available
3. the primary/infant school has reached the infant class size limit
4. the school is a grammar school and your child has not reached the required standard of entry

Schools may also refuse a place:

1. in the sixth form of a school, even if it is the school the child already attends
2. in a year group which is not the usual year group for the child's age

Parents have the right to have the school's decision reviewed by an Independent Appeal Panel when their child is refused a place for any of the above reasons. This is known as an appeal.

The Independent Appeal Panel will consider the school's reasons for refusing the place and the parents' reasons for preferring the school and make a decision by balancing both sides.

2.1 Unusual Cases

Please note:

- i) If your child has been permanently excluded from two or more schools and the first exclusion occurred after 1 September 1997, there is no legal right for you, the parent, to appeal against a school's decision to refuse to admit your child for two years after the second permanent exclusion.
- ii) In a very small number of cases a school in difficult circumstances may refuse to take a child with challenging behaviour. This does not apply to the normal year of entry to the school which is Reception for primary and infant schools, Year 3 for junior schools and Year 7 for secondary schools.

3.0 BEFORE APPEALING

If you have not already done so, it would be advisable for you to visit the school you are appealing for. You may also wish to visit any alternative schools in the area.

Make sure that you have considered the alternative schools in your area, including availability of places and possible provision of school transport. Information is available from the contacts given later in this guide.

Further information about standards in schools is available on the DCSF and Ofsted websites. These addresses are available on the Useful Contacts page of this guide.

If your appeal is for a place in Year 10 or Year 11 you should also consider whether your child's GCSE option subjects and exam boards are compatible. This will be available from the school.

Legal advice about the appeals procedure is available from Legal Services on (01522) 552163.

4.0 WHEN TO APPEAL

Where an appeal is for a place in a school now (a mid-year appeal) you should appeal **as soon as possible** after you are made aware of the decision to refuse your child a place. However, **if you are moving house**, please refer to the section on *Change of Address*. We will endeavour to hear your appeal as soon as possible, however we must legally hear your appeal within 30 school days of the Notice of Appeal being received.

4.1 Secondary Transfer Appeals

If your appeal is for a Year 7 place in September, you will need to submit your appeal by the **end of March**. If you are unable to meet this closing date please contact us for advice.

Any appeals received after the end of March, whether late or the result of parents moving into a new area, will be heard at the earliest available date.

5.0 THE NOTICE OF APPEAL FORM

This form needs to be filled in **carefully and honestly**. If you do not fully complete this form there could be a delay in your appeal being heard.

If you have any difficulty in completing the form advice is available from the School Appeals Team in Legal Services on (01522) 552129/552167. They will also be happy to help if you are disabled, have difficulties with mobility or have language or communication difficulties or any other special needs and will do everything possible to make sure the appeal arrangements are suitable for your needs.

Interpreters and/or community supporters are available.

5.1 Change of Address

If you are moving house then the Panel will only consider your proposed address if you have entered into a definite legal commitment to move, for example, exchanged contracts on a house purchase or signed a lease/tenancy agreement. Otherwise the Panel will only take account of your present address when considering your appeal. In this situation it may be in your best interests to ask for the appeal hearing to be deferred until you enter into the appropriate legal commitment. That, however, is a matter for you to decide.

5.2 Attending the Appeal

It is very important and in your best interests that you attend the appeal or send a representative. The Panel will want to know your reasons why your child should attend your preferred school and may have some questions for you. You will also have the opportunity to ask questions.

If you inform us you are not able to attend or send a representative, the Panel will hear your appeal in your absence. The Clerk to the Panel may contact you and ask some questions beforehand. The Panel **may**, however, put off making a decision until more information is provided, which could delay your child's admission to a school. This is in the interest of fairness to all concerned.

If you are unable to attend the appeal at short notice and it is impractical to offer an alternative date then the appeal may go ahead without you based on the written information in your Notice of Appeal.

5.3 Whom May You bring?

You may bring a representative, friend or supporter. This person can speak on your behalf if you wish them to.

You have the right to call witnesses, but it is not normally necessary for any witnesses to attend. If you do intend to call witnesses, please contact the School at least seven days before the hearing and tell them who the witnesses are and why you are calling them.

A member of the local authority, member of the admission authority or a local politician may not attend an appeal as your representative or supporter as this may lead to a conflict of interests.

Children should not normally act as a witness or attend appeal hearings.

5.4 Dates When You Are Not Available

Appeals are usually heard during school term times and on weekdays during normal office hours. It is therefore very important that you give details of any dates or times when you would be unable to attend.

5.5 Ten School Days Notice

You are entitled to 10 school days notice of the date of the appeal hearing. The appeal will only be heard in less than 10 school days if you indicate on your form that you are prepared to allow this.

5.6 Reasons For Your Appeal

The most important part of the form is the section where you state your reasons for the appeal.

You need to give as much information as possible in this section, giving **all** of the reasons why you want your child to attend your preferred school. You may also wish to say why you believe any alternative school would be less satisfactory for your child. If you need to, you should continue your reasons on extra paper and attach it securely to the form.

It is very important to complete this section and put in as much detail as possible and to include supporting documents, if applicable. If you are not going to attend the appeal this is even more important because it is the only information the panel will have.

5.7 Supporting Evidence

Please note that it is for parents to supply any relevant additional information you wish to submit to support your case and neither the School, nor the Panel,

will seek to obtain it on your behalf. Any supporting evidence must be received prior to the appeal hearing.

You should attach any supporting documents you wish to use at the appeal, and refer to them in your reasons. For example, you may wish to attach a doctor's note giving details of any medical problems that have affected your decision to apply for a particular school.

If you have additional information to submit after returning your Notice of Appeal, please submit this as soon as possible. It may be necessary to adjourn the hearing if significant information is received less than 3 working days before the hearing.

If you wish to submit additional information on the day of the appeal please hand it to the Clerk before the hearing commences.

6.0 WHERE TO SEND THE NOTICE OF APPEAL

Please check that you have filled in all the relevant sections, ticked the declaration boxes and signed and dated the form. The form must be signed by a parent (see section 6.1)

You must then send in your Notice of Appeal to the address given to you by the school.

6.1 *Definition of a Parent*

The Education Act 1996 defines a parent as including 'any person who is not a parent of the child but has parental responsibility for them or who cares for them'.

7.0 WHAT HAPPENS NEXT?

Your Notice of Appeal will be acknowledged.

Arrangements will then be made to hear your appeal.

You will be informed of the date and time of your appeal and where it will be held. The venue will be near to the school in question but not at the school.

Before your appeal is heard, you will receive a copy of the School's statement (the school you are appealing for) giving the reasons for the refusal to admit your child to your preferred school.

8.0 HOW LONG IS THE APPEAL HEARING

Most appeal hearings last between 45 minutes and one hour, but you will have as much time as you need.

9.0 WHO WILL BE AT THE APPEAL?

The following will attend the appeal:

- A Panel of three members to hear the appeal.
- The Clerk to the Appeal Panel.
- A representative from the school.
- You and/or a friend, supporter or representative.

Occasionally there may be an observer in attendance. The observer will play no part in the proceedings.

9.1 *The Independent Appeal Panel*

The Panel is a group of three people who will consider your appeal.

There will be at least one person with an educational background and at least one lay member on the Panel.

None of the Panel members will have any former knowledge of the case other than your Notice of Appeal and the School's Statement.

All members of the Panel are independent of the school, the school governors and the Admission Authority.

The decision made by the Panel is binding on both the school and the Admission Authority.

9.2 *The Clerk to the Appeal Panel*

The Clerk's role is:-

- to advise the Panel on the law
- to make sure that the correct procedure is followed
- to make notes on the meeting
- to assist the parent, if required.

The Clerk does not take part in the decision making but stays with the Panel whilst the decision is made. Notes of proceeding made by the Clerk are the property of the Appeal Panel and are not subject to the Freedom of Information Act.

10.0 WHAT WILL HAPPEN AT THE APPEAL?

When you arrive at the appeal hearing you will be shown to a waiting area. The School Representative will also be asked to wait separately.

The Clerk will invite you all, at the same time, into the room where the appeal will be heard and in which the panel members will already be present. You will be introduced and the Clerk will explain the procedure and check that everyone has the same paperwork. The paperwork is usually:

- a) the School's Statement, and any supporting evidence;
- b) your Notice of Appeal and any supporting documents.

10.1 The Procedure for the Hearing

- a) The representative from the school will put the case explaining why the school has been unable to offer a place to your child and the difficulties the school would have if even one more child were to be admitted (this is called "the case for prejudice").
- b) You or your representatives can then ask questions relating to this and any other points made by the representative from the school.
- c) The Panel may then ask questions of the representative from the school.
- d) You will then have the opportunity to state your reasons why you want your child to go to that particular school (this is "expressing parental preference").
- e) The representative from the school may ask you some questions about your reasons.
- f) The Panel may ask you some questions about the points you have raised.
- g) The representative from the school will sum up the reasons for refusing your child a place.
- h) You then sum up your reasons for wanting a place.

The appeal is then ended and you will all be asked to leave the room together.

10.2 Multiple Appeals

If there are a considerable number of appeals for the same school, it may be necessary to hold a session whereby the School will present its case to all the parents together. All parents will be given an opportunity to ask general questions of the representative of the School as will the Panel. Each parent will then be given an individual appointment for them to present their case to the Panel. The School's case may be held during an evening with the individual parents' cases held in the preceding days.

You will be informed by letter beforehand if this procedure applies to your appeal.

11.0 WHEN IS THE DECISION MADE?

When there are only one or two appeals, the decision is made after the last appeal.

When there are several appeals for the same school, the decision is made after **all** those appeals have been heard. This may be some days after your own appeal hearing.

12.0 HOW WILL YOU LEARN OF THE PANEL'S DECISION?

The Clerk will inform you at the start of the appeal whether or not it is possible for you to telephone the School Appeals Team for the result of your appeal and if so, whom to contact and when. You will, in any event, receive written confirmation of the Panel's decision.

Please note that the Local Authority is unable to overturn the Panel's decision. This can only be done by the High Court (please see the section on *Taking Matters Further*).

13.0 HOW IS THE DECISION MADE?

The decision making process differs slightly depending on the type of appeal and the grounds for refusal. Examples of the different grounds for refusal are shown below.

13.1 Where the Refusal is Based on the Fullness of the School

This decision is made in two stages.

Stage 1 - Factual

Firstly the Panel must check whether the school's admissions arrangements have been correctly applied in the individual's case.

If the arrangements have been correctly applied, the Panel must decide whether the School has made its case. In other words, is the Panel satisfied that the school is full and to admit the child would prejudice the education of children already allocated places at the school? (In legal terms that means does the school have a prejudiced situation?).

If the school already has a prejudiced situation, the Panel has to be satisfied that to admit one more child would increase that prejudice.

If the School has not made its case then the appeal will automatically be upheld, the child will be admitted to the school and there will be no need to go on to the second stage.

If, however, the School has made its case, the Panel then needs to go on and reach a decision on Stage 2.

Stage 2 - A balancing exercise

The Panel must use its discretion to balance the extent of prejudice to the school's case against the parents' case and the effect on the child.

14.0 TAKING MATTERS FURTHER

Further Appeals

In general parents may make one appeal per academic year per child for a place at a given school.

However, if there are significant and material changes in the circumstances of the parent, child or school and the parent makes a further application, the School may be required to reach a fresh decision. In this situation a fresh appeal may be possible.

Examples of changes in circumstances could be a medical condition arising since the time the original application was made, or a parent's change of address.

Any fresh appeal will be heard with a different Panel and Clerk.

Complaints to the Local Government Ombudsman

The Local Government Ombudsman can investigate written complaints about maladministration on the part of an Independent Appeal Panel. This is not a right of appeal and has to relate to procedural issues.

The Ombudsman is unable to overturn an Appeal Panel's decision but may propose a fresh appeal with a new panel and Clerk.

The appropriate regional centre of the Local Government Ombudsman is:

Beverley House
17 Shipton Road
York
YO30 5FZ

Telephone: 01904 380200

Complaints to the Secretary of State

The Secretary of State cannot review decisions of Individual Appeal Panels but can consider:

- whether the Governing Body of the School has correctly constituted the Appeal Panel; and
- whether the Local Authority or the governing body has acted reasonably in exercising its functions in respect of the appeal process.

Right to consult a solicitor

If you believe the decision was incorrect in law then you may seek a judicial review of the decision in the High Court. It is advisable to take your own independent legal advice before contemplating such court proceedings.

Useful Contacts

- Legal Services – School Appeals Team (01522) 552129
(01522) 552167
- Education Team (01522) 782030
www.gtsil.co.uk
admissionappeals@lincolnshire.gov.uk
- Education Transport (01522) 782020
- Special Educational Needs (01522) 553332
Services Group
- Traveller Education Service (01522) 553320
- Choice Advisers (01522) 553351
- Local Government Ombudsman (01904) 380200
- Department for Children, Schools and Families www.dcsf.gov.uk (08700) 012345
- Office for Standards in Education www.ofsted.gov.uk (08456) 404045
- Advisory Centre for Education (ACE) Ltd (08088) 005793
An independent national advice centre for Monday – Friday
for parents [www.ace-
ed.org.uk](http://www.ace-ed.org.uk) 2.00 - 5.00pm
- A website from the Central Office of information providing a wide range of public service information www.direct.gov.uk