

# **Peterborough Diocese Board of Education**

## **Infant Class Appeals**

### **What is an infant class?**

An infant class is a class in which the majority of pupils will reach the age of 5, 6 or 7 years old by the end of the academic year.

### **Which Year Groups are infant classes?**

Normally infant classes are the Reception/Foundation Year and Years 1 and 2 but sometimes, when a school mixes its year groups, an infant class may contain Year 3 pupils.

For example, a class could have 18 Year 2 pupils mixed with 12 Year 3 pupils and this would be counted as an infant class because the majority of pupils in that class will reach the age of 7 in the school year.

### **What is the limit to the number of pupils in an infant class?**

The School Standards and Framework Act 1998 states that, subject to certain limited exceptions, an infant class must not contain more than 30 pupils with a single qualified school teacher.

The exceptions are :

- a) children with statements of special educational needs who are admitted to the school outside the normal admissions round
- b) children moving into the area outside the normal admissions round for whom there is no other available school within reasonable distance (admission authorities must check with local authorities before determining that a child falls into this category)
- c) children admitted, after initial allocation of places on the local offer date, because the person responsible for making the original decision recognises that an error was made in implementing the school's admission arrangements and that a place ought to have been offered
- d) where the child is looked after and is admitted outside the normal admissions round
- e) children admitted where the panel upholds an appeal under either of the grounds described below (Factor 1 or Factor 2)
- f) where a child normally educated in a special school or special educational needs unit attached to a mainstream school attends an infant class in the mainstream school, where this has been deemed as beneficial to the child.

Therefore, an Admission Authority must normally refuse to admit a child to a school if it judged that, in order to do so and to meet the limit on infant classes, it would be necessary to take "qualifying measures".

### **What is meant by "qualifying measures"?**

"Qualifying measures" are considered to be measures required to be taken in order to ensure compliance with the statutory limit on infant class sizes. This may include the need to employ an additional qualified teacher, or the need to build an extra classroom, or the need to mix year groups.

## **Are all appeals for infant classes going to be "infant class size appeals"?**

Not necessarily. It depends on a variety of factors such as: the numbers admitted to the school; whether or not the pupils are taught as single Year Groups or mixed with other Year Groups; and how many other parents are appealing.

Here are **2** examples:

**Example 1:** If the Admission Number is **60** and the school organises as **2** classes of **30** Reception Year pupils then it will be a "class size" appeal.

**Example 2:** If the Admission Number is **33** and the school mixes the seven year groups into nine classes there will be **25** or **26** in each class and it will not be a "class size" appeal.

### **“Future Prejudice”**

If the infant class size limit is not reached in this school year but, by the admission of another pupil now, it would be reached in a subsequent infant class year, then the class size limit must apply now – this is called future prejudice. (The appeal panel must consider whether the admission of an additional child would cause future infant class size prejudice).

For example:

If a school's Admission Number is 45 and the Reception/Foundation Year is organised as 2 classes of 22 and 23 pupils in each class, the infant class size limit would not be reached in the first year at the school by the admission of one further pupil to the Reception/Foundation Year.

Those 45 pupils would then go into Year 1. If that school then organises its Year 1 and Year 2 classes so that they are taught as 3 mixed classes of Years 1 and 2 then the infant class size limit would be reached in the subsequent infant class years. (i.e. Year 1 & Year 2 = 45 + 45 = 90 divided into 3 classes of 30 pupils in each class)

Therefore, in this example, the infant class size limit would apply to an appeal for a place in the Reception/Foundation Year now as the class size limit of 30 would be reached when the child moved into Years 1 and 2.

### **My appeal?**

This will depend on whether or not it is a "class size" appeal.

Where a child has been refused admission to a school on “infant class size prejudice” grounds, an appeal panel can only offer a place if one of the two factors stated below applies. Either:

Factor 1 - the child would have been offered a place if the published admission arrangements had been properly implemented; and/or

Factor 2 - the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

Factor 1 - is whether the Admission Authority kept to its own rules as set out in its admission arrangements. If the Admission Authority did not follow its own rules, either deliberately or by mistake, then your appeal can succeed but only if your child would have got a place at the school if the rules had been applied properly.

Factor 2 - is whether the Admission Authority acted unreasonably. The law defines "unreasonable" carefully in these cases. For the decision to be unreasonable it must be completely perverse, illogical or not based on the facts of the case, i.e. "beyond the range of responses open to a reasonable decision maker".

### **The Role of the panel in this type of appeal**

In making its decision the panel **must**:

- consider whether infant class size prejudice would be caused if another child were admitted
- consider whether future infant class size prejudice would be caused
- take all relevant circumstances into account
- consider whether the child would have been offered a place if the admission arrangements had been properly implemented
- consider whether the admission authority's decision was one that a reasonable admission authority would make in the circumstances of the case