

Peterborough Diocese Board of Education

Infant Class Size 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) children in care admitted outside the normal admissions round;
- e) children admitted where an independent appeal panel upholds an appeal under either of the grounds described below (Factor 1, 2 or 3);
- f) children who are registered pupils at special schools and who, by arrangement with another school which is not a special school, receive part of their education at that school; and
- g) children with special educational needs who are registered pupils at a school which is not a special school and are normally educated in a special educational needs unit attached, that attend 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 "remedial measures".

What is meant by "remedial measures"?

"Remedial 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 "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.*

If you have received this information sheet with your Notice of Appeal form, it is because your appeal is an Infant 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, 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.

Grounds on which an Infant Class Size Appeal can be upheld

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 three factors stated below, applies.

Factor 1 - the child would have been offered a place if the published admission arrangements had been properly implemented.

*The Panel will consider whether the Admission Authority kept to its procedure and admission criteria as set out in its admission policy and arrangements. If the Admission Authority did not follow its own procedure, either deliberately or by mistake, then your appeal can succeed, **but only** if you can show that your child would have got a place at the school if the co-ordinated admission arrangements had been applied properly. However if a significant number of children*

are involved in the error and serious difficulties at the school would be caused by admitting them all, your case may not be successful.

Factor 2 - the child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admissions Code and the SSFA 1998.

The panel looks at whether the admission arrangements at the school are compliant with the School Admissions Code. The panel will review the arrangements.

Factor 3 – the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

The panel reviews whether the Admission Authority acted unreasonably. The law defines "unreasonable" carefully in these cases. For the decision to be unreasonable it must be "perverse in the light of the admission arrangements", 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 Infant Class Size appeals

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

- consider whether infant class size prejudice, now or in the future, would be caused if another child were admitted;
- take all relevant circumstances into account;
- consider whether the child would have been offered a place if the admission arrangements had been properly implemented;
- confirm that the admission arrangements are compliant with the School Admissions Code; and
- consider whether the admission authority's decision was one that a reasonable admission authority would make in the circumstances of the case.

The panel will review the information which was available to the Admission Authority at the time when it made its decision, or material which would have been available to the Admission Authority if it had acted reasonably. However, the panel should allow fresh material to be submitted by the parents in order to establish the factual basis for their claim that the arrangements had not been properly implemented.

Evidence from the parent/legal guardian

You have to decide what you want to tell the panel. You can tell the panel about your personal reasons but you are strongly advised you should focus on showing that either;

- a mistake has been made in your case which meant that your child did not get a place at the school; or
- when considering your application, the Admission Authority either ignored relevant information or took into account irrelevant information, or the decision is illogical, or irrational in the circumstances of your case.