The Office ♦ Moat Farm ♦ Marsh Lane ♦ Stoke Mandeville ♦ Bucks ♦ HP22 5UZ

Notes for Parents and Guardians on Admission Appeals

You can make an appeal if you have applied for a place in an ODBST school and been refused.

Appeals are managed by the school and organised for us by the Admissions Officer of the Oxford Diocese. We use an independent panel to hear appeals and they consider the evidence from the parent/carer and the school to reach a judgement. You will need to complete a separate appeal form (see appendix A) for each child and/or each school. On this you will be asked to provide your written reasons for appealing.

You should send your supporting evidence with your appeal form or no later than 14 calendar days before the appeal is considered (the school will tell you the date), or the panel may not be able to consider it.

The panel will not consider any evidence provided after your appeal hearing.

Number the pages of your evidence and mark them with your child's name.

- Do not send school work or certificates
- Do not send photographs of documents; original documents; audio/visual presentations

It is your responsibility to provide your evidence in support of your appeal.

Appeal Hearings

There are two different kinds of hearing depending on the grounds on which the place has been refused.

1. Prejudice to efficient education – Key Stage 1 classes below 30, and all other year groups
2. Infant class size prejudice – classes in Key Stage 1 currently with, or because of the number of appeals, likely to exceed, 30 pupils.

1. **Appeals against a decision to refuse a place on grounds of prejudice to efficient education and/or use of resources (normal prejudice)**

Stage One: (Governor's Case – about 30 minutes) *All appellants may be present*

The first stage – **examining the decision to refuse admission**: the panel will consider the following matters in relation to each child that is subject of an appeal:

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 panel will then decide whether the admission of additional children[1] would prejudice the provision of efficient education or the efficient use of resources.

The panel will 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

[1] At this stage the characteristics and circumstances of the particular child in question will not, except in extreme cases, be relevant to the question of whether the admission will cause prejudice (*R (on the application of M) v Haringey Independent Appeal Panel* [2010] EWCA Civ 1103).

B. it finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources.

However, in multiple appeals where a number of children would have been offered a place, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel will proceed to the second stage.

The panel will proceed to the second stage where:

A. it finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child; 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 it finds that the admission of additional children would prejudice the provision of efficient education or efficient use of resources.

If the panel agrees that this is the case a second, balancing stage is carried out when parents are able to put their own individual case for admitting a child over and above this number, and the panel can either uphold or refuse this case.

All parents appealing for places may attend stage one and ask questions about the general principles, not about individual cases at this stage.

Stage Two: (Individual Appellant's Case - about 30 minutes) Balancing the arguments

This stage is repeated for each individual appeal and enables you to present your own case in private while other parents withdraw. The governors' representative explains why a place is being refused for your child, based on the school's published admission criteria. You and the panel may question this. You are then asked to explain why you believe your particular case is strong enough to outweigh any prejudice to the school. You should present your case fully, and you may then be questioned by the panel and the governors' representative. The hearing may be adjourned if the panel feels that further information is needed. Finally both the governors' representative and then you are given the opportunity to make concluding remarks.

The panel will balance the prejudice to the school against the appellant's case for the child to be admitted to the school. It will 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 will uphold the appeal.

In multiple appeals, the panel will 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 than 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 will uphold the appeals of at least that number of children.

2. Appeals against a decision to refuse a place on grounds of infant class size prejudice[2]

In these circumstances under the legislation, an appeal is in fact a review whereby the Panel is only able to consider the information and material that was available to the Admissions Authority at the time the Admissions Authority made its decision, or information which would have been available if the Admissions

[2] The procedure for determining infant class size appeals has been considered by the Court of Appeal and High Court in a number of cases: R v London Borough of Richmond ex parte JC [2001] ELR 21, CA; The School Admission Appeals Panel for the London Borough of Hounslow v The Mayor and Burgesses of the London Borough of Hounslow [2002] EWCA Civ 900; R (on the application of South Gloucestershire Local Education Authority) v South Gloucestershire Schools Appeal Panel [2001] EWHC Admin 732; and R (K and S) v Admissions Appeal Panel of Cardiff County Council and Cardiff County Council (2003) EWHC 436 (Admin).

Authority had acted properly eg where the Admissions Authority lost an application form. It is very difficult to win an infant class size appeal. You will only be successful if the panel decides that your child was turned down wrongly because the admission arrangements were unlawful or a mistake was made and your child would have been given a place if a mistake was not made and your child would have been given a place if a mistake was not made and/or it was unreasonable in the legal sense to refuse your application.

Two stage process

Stage one: (Governor's Case – about 30 minutes) *All appellants may be present*

Regulations[3] made under Section 1 of the School Standards and Framework Act 1998 limit the size of an infant class (a class in which the majority of children will reach the age of 5, 6 or 7 during the school year) to 30 pupils per school teacher[4]. Only in very limited circumstances can admission over the limit be permitted[5].

First stage – examining the decision to refuse admission

The panel must consider all the following matters:

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

The 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 and the child would have been offered a place if the arrangements had complied or had been 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.

In multiple appeals where a number of children would have been offered a place under the above paragraph, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel will proceed to the second stage.

The 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;

---

[3] The School Admissions (Infant Class Sizes) (England) Regulations 2012.

[4] As defined in Section 4 of the School Standards and Framework Act 1998.

[5] See paragraph 2.15 of the School Admissions Code.

and it finds that the decision to refuse admission was one which a reasonable admission authority could have made.

Stage Two: (Individual Appellant's Case - about 30 minutes

This stage is repeated for each individual appeal and enables you to present your own case in private while other parents withdraw. 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 to focus on showing that either: 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; b) whether the admission arrangements were correctly and impartially applied in your particular case; and c) whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case

Consideration of 'reasonableness'

The threshold for finding that an admission authority's decision to refuse admission was not one that a reasonable authority would have made is high. The panel will need to be satisfied that the decision to refuse to admit the child was **'perverse in the light of the admission arrangements'**[6] i.e. 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'**[7] In simple terms**: It is an illogical decision or irrational, wildly ridiculous decision which is not based on the facts of the case.**

For further information please contact:

Christine Jones,

Church House Oxford

Langford Locks

KIDLINGTON

Oxford

OX5 1GF

[6] The School Admission Appeals Panel for the London Borough of Hounslow v The Mayor and Burgesses of the London Borough of Hounslow [2002] EWCA Civ 900.

[7] Council of Civil Service Unions v Minister for the Civil Service [1984] 3 All ER 935.

School Admission Appeals - Frequently Asked Questions

……..

1. **When do I have the right to appeal?** Under the School Standards and Framework Act 1998 (as amended by subsequent Acts) and the School Admission Appeals Code, produced by the Department for Education (DfE), you have the right to appeal against any decision made by or on behalf of the Admission Authority of the school for which you have expressed a preference. In the case of Academies, the Admission Authority is the Multi Academy Trust Board of the school in question. You should therefore contact the school(s) direct for details on how to appeal.

You may also lodge an appeal if you have recently moved into the area or you wish your child to change schools mid-term and you have been refused admission at your preferred school. These appeals will be heard within 30 school days.

2. **What if I am offered an alternative school?** It is only fair to state that many appeals considered by Independent Appeal Panels are not successful, therefore it would be in your interests to consider an alternative school for your child. Officers at the local authority should be able to assist you with any queries about alternative schools.

3. **Can I appeal for a place at more than one school?** Yes, you can, providing that the schools are named on your preference form. As stated above, the Trust Board is the Admission Authority for Academy schools, therefore you will probably need to contact the school direct for details of how to appeal.

4. **Can I still appeal if my child is on the school's waiting list?** Yes, you can still appeal as the two processes are entirely separate and unrelated. Your position on the waiting list is not relevant to your appeal, indeed the Panel should not be informed of it as it has no bearing on their decision.

5. **What if my child has a statement of Special Educational Needs (SEN) or EHC plan (Education and Health Care Plan)?** If your child has such a statement, your appeal must be made to the Special Educational Needs and Disability Tribunal (SENDIST) via the SEN Officer dealing with your child.

6. **How much notice of the appeal hearing will I be given?** In the normal admissions round the school will advise you on the expected dates of their appeals, it will be on their website. However in addition (and including in-year appeals) you will be given at least 10 school days notice of the date, time and location of the hearing. In exceptional circumstances and with your agreement, the appeal may be heard within a shorter time frame.

7. **Who will hear my appeal?** Your appeal will be heard by three trained and experienced Panel Members, all of whom are completely independent. They will include an 'Education' representative and a 'Lay' representative. All Panel members are volunteers who give their time freely. There will also be a Clerk present throughout the hearing to advise on legal matters and to record the proceedings. The Clerk takes no part in the decision-making process.

8. **What decisions can the Appeal Panel make?** The Panel will listen to your case and to the school's case and can ask questions of both. It will consider all written evidence submitted prior to the hearing and all oral evidence presented at the hearing but is unable to enter into any debate on the issues raised. The Panel must not reassess the capacity of the school, but must consider the impact on the school of admitting additional children. It can either allow your appeal or reject it, there is no other course of action open to it. If the Panel allows your appeal, the school must offer your child a place and the decision of the Panel is final.

9. **Can I attend the hearing?** Yes, indeed you are encouraged to attend the hearing and to present your case personally. Most parents do take up this opportunity so that they can say everything that they want to say and so that they can provide answers to questions from the Panel and from the school.

10. **What happens if I can't attend?** If you decide not to attend, your appeal will be heard in your absence, based on your previously submitted written evidence. It is advisable to attend if at all possible. Please note that if you indicate that you will attend but are absent on the day, your appeal will go ahead without you. Appeal Panels give equal consideration to appeals heard in the absence of parents as to appeals heard in the presence of parents. Every attempt is made to arrange suitable dates and these are posted on the School's website in the main round of admissions. However during May, June and July when there are large numbers of appeals to be heard, it is unlikely that an alternative date can be offered without a significant wait.

11. **Can I bring someone else along?** Yes, you may bring a partner, friend or adviser with you providing that you have supplied their details to the Panel beforehand and that there is no reason to suspect that their attendance is in contravention of any requirements in the School Admission Appeals Code. You may also designate someone to attend the appeal on your behalf, providing that you have made this clear on the appeal form. Please note, it should not be necessary to be accompanied by a solicitor or lawyer, as we try to maintain a reasonably informal atmosphere. However, if you wish to do so, please ensure that you have completed their details on the Appeal Form to give the Panel sufficient notice. The Presenting Governor may also be accompanied by another governor and on many occasions, this will be the headteacher of the school. However, there will only be one 'presenting officer'.

12. **What if I have a disability?** Please let us know in advance so that we can try to make the necessary arrangements to accommodate you.

13. **What if I need an interpreter or signer?** You may arrange your own interpreter or signer, but you must let us know at least 7 days before the hearing that you intend to do this. Alternative arrangements can also be made. Please let us know as soon as possible if assistance is required.

14. **Can I bring my child to the hearing?** Although the appeal is for the benefit of your child, it is you as parents or guardians who actually make the appeal, therefore it is for you to decide. However we would strongly advice against it as the Panel and other appellants would find this distracting and therefore difficult to concentrate on the proceedings and your child may be asked to leave if they did become distracting to other parents or panel members. Nor are there any childcare facilities at any of our venues. Bringing children to their own appeals may be quite stressful for them, the Panel will need to ask as many questions as necessary to get a clear picture of the case and this may not be appropriate in front of a child.

15. **How do I present my case?** You will need to complete the Appeal Form as comprehensively as possible, including all relevant details and any supporting documents (it is not sufficient to write just a couple of lines as this is likely to delay the hearing). This will then be sent to the school so that they can compile their case as to why they were not able to comply with parental preference. Both sets of papers will then be sent to yourself and to the Panel Members so that they have ample time to familiarise themselves with the contents, prior to the actual hearing. NB. You cannot submit any evidence after your appeal has been heard.

16. **What sort of evidence should I include?** If your case is based on medical grounds, you should if possible, produce written evidence from a medical practitioner to support your case. If your case is based on a house move, you should include written supporting evidence from a solicitor eg exchange of contracts etc. Really, whatever you can produce in support of your case, should be included but at any event, it should be submitted at least 5 school days prior to the date of the appeal. ***Please note that the Appeal Panel must decide whether any late material not submitted by the specified deadline will be considered. The onus is on parents to produce all the material they want to be considered in support of their application or appeal.***

17. **Will I know in advance what the School's case is?** Yes, you will be sent a copy of the school's case and the reasons for not being able to offer your child a place, at least 7 school days before your appeal (unless you have agreed to a shorter time scale).

18. **Am I allowed to know why previous appeals at my preferred school have been successful?** There are no precedents on appeals so it is not possible to predict whether or not your appeal will be successful – each one is heard on its merits. Nor is it possible to divulge information about other appeals as all are heard in confidence.

19. **If I accept a place at my offered school, do I lose the right to appeal?** Even if you accept a place at an alternative school, you can still appeal to any of the schools which you named on your preference form. Accepting a place at a school which you may not really want, will not prejudice any appeal.

20. **If my appeal is heard earlier in the week, does it mean that I have a better chance of success?** No decisions are made until all appeals for the same school have been heard, so order of hearings are not relevant.

21. **Can I withdraw my appeal?** Yes, you can withdraw your appeal at any time before the hearing. (**As both Governors and Panel Members are volunteers it would be appreciated if you could let us know as soon as possible if you intend to withdraw**).

22. **What happens at the appeal hearing?** You will be sent a letter detailing the procedure for the day prior to the hearing. However, please do not worry as you will be led through the procedure by the Chairman on the day who will explain it all to you. What is important to note is that the conduct of the appeal will be based on the principles of natural justice.

23. **How do I make an appeal?** You must contact the Admission Authority (school) concerned. If lodged on time, we will, hear your appeal according to the Admission Authority's timetable.

24. **What happens then?** You will be sent a letter confirming the date, time and place of the hearing (with 10 school days notice, unless you have agreed to a shorter notice period). You will also be sent copies of all documents that are to be used at the hearing within 7 school days, including your own case and the school's case.

25. **What happens after my appeal?** After your appeal, you will be notified in writing of the Panel's decision within 5 school days, unless there are multiple appeals when decision letters will take longer. However the Clerk may agree to e-mail you with the result in such cases, but will not enter into any discussion about the process nor the Panel's decision. Please note that if there are multiple appeals for the same school, the Panel cannot make any decisions until the last appeal has been heard, so there may be several days' delay in notifying appellants of the results. Please also be aware that the Diocese of Oxford plays no part whatsoever in the decision making process and therefore cannot influence or comment on the Independent Appeal Panel's decision.

26. **Is the decision final?** The decision is final and is binding on the Admission Authority of the school. There is no further right of appeal in law (only the courts can overturn an appeal panel's decision).

27. **The Academies Central Unit, Education Funding Agency** can investigate written complaints from parents about maladministration on the part of an admission authority or an appeal panel. This is not a right of appeal and has to relate to issues such as a failure to follow correct procedures or a failure to act independently and fairly rather than just that the person making the complaint thinks the decision is wrong. However, it is important to understand that the EFA cannot change a Panel's decision, but may make recommendations for a suitable remedy (such as asking the Admission Authority to offer another appeal) if he finds any evidence of such maladministration. There are several ways in which to contact the EFA: via the appeals section on the Department for Education website or; send a completed complaints form to

Academyquestions@efa.education.gov.uk or; write to Academies Central Unit (academy independent appeal panel complaints), Education Funding Agency, Earlsdon Park, 53-55 Butts Road, Coventry, CV1 3BH.

28. **Can I appeal again?** It is not normally possible to make another appeal for the same school during the same school year unless there is a significant change in your circumstances which is relevant to your appeal. Even then, the Admission Authority must agree to another appeal.

29. **What if my appeal is unsuccessful?** If your appeal is unsuccessful and you have not accepted a place at an alternative school, you will need to contact your Local Authority for information on schools in your area with vacancies.

Appendix A

ADMISSION APPEAL FORM FOR ODBST ACADEMIES

Please complete and return to the Chair of Governors at CHESHAM BOIS CE SCHOOL by:
This date must be 20 schools days from the date of refusal (check the date the refusal/offer letter was sent)

Name of Parent/Carer:

Address:

Postcode:

Telephone: Daytime: Evening:

Email:

We/I wish to appeal against the Governors' decision to refuse a place for:

Name of child:

Date of birth: Year Group:

Starting date sought:

Criterion for entry (as per published admissions criteria):

Signed: Date:

Notice of hearing date – agreement to reduction in notice time

The Clerk to the Independent Panel is normally required to give you 10 school days' notice of the hearing date. However, you may waive your right to that notice in order that your appeal may be heard at an earlier date, but this may result in the case papers being sent to you just before the hearing instead of the usual timescale.

I wish to waive my right to the 10 school days notice of the hearing and I understand that this may result in a shorter time scale to consider the case papers.

If you wish to waive your right print and sign your name below:

Signed: Print name:

Grounds for appeal - *Please give details of the reasons why you believe your child should be admitted to the school. You may continue on the reverse side of this form. You should ensure you include any documents that you feel might strengthen your case.* ***The grounds for your appeal must be set out in writing (School Admissions Appeal Code 2012 para 2.5)***

Signed: Date: