

Admission appeals

How to appeal for a place at a school or academy located in Newham

If you have been refused a place at any school that you have named on your most recent school admission application you have the legal right to appeal against the decision and have your case heard by an Independent Appeal Panel. Our appeals process is fully compliant with the Department for Education School Appeals Code.

If your child has an Education, Health and Care Plan (EHCP) you cannot use the process outlined in this section. Parent/carers whose children have EHCP can appeal to the First-tier Tribunal (Special Educational Needs and Disability) against decisions made by Local Education Authorities in England about their children's education. To lodge the appeal you must contact the Council's Special Educational Needs (SEN) section.

You can only appeal for a place at a school where you have expressed a preference and been refused a place. You cannot appeal for a school if you have not made an application for it.

You can normally only appeal for the same school once for each academic year. In exceptional circumstances you may be able to appeal more than once, if there are significant changes to your personal circumstances. A change or significant change to your personal circumstances does not mean you will automatically be given a second appeal. The school's admission authority will decide if a second appeal can be granted.

You cannot have an independent appeal for a place in a nursery class or nursery schools, as this is not statutory education.

If you want to appeal for a place at any school in Newham, including an academy or free school based in Newham (except Chobham Academy) you must complete the Council's appeal form or send in a letter of appeal detailing all your reasons – these are known as your written representations.

You must send your appeal to:
Newham Independent School Appeals Service (NISAS)
1000 Dockside Road
London E16 2QU

To appeal for Chobham Academy or a school that is in another borough you must check their website for details of their appeal process.

Your school application outcome letter will tell you how to appeal if you wish to do so.

When will my case be heard?

Statutory timetable

For 'on time' school applications made in the normal admissions round, appeals will be heard within 40 school days of the deadline for lodging appeals.

For 'late' school applications, appeals should be heard within 40 school days from the deadline for lodging appeals where possible.

If you lodge your appeal after the relevant deadline your appeal will be heard within 30 school days of the appeal being lodged.

'Normal' admissions are applications for reception, primary to secondary, infant to junior and 14-19 transition for entry in September 2019.

For infant to junior transition and reception the national closing date is **15 January 2019**.

The deadline for lodging reception appeals for September 2019 entry will be **Friday 10 May 2019**.

For in-year admissions, appeals will be heard within 30 school days of the appeal being lodged. There is no closing date for lodging an 'in year' application, the only requirement is that you have not withdrawn your application for the school you are appealing for.

If you withdraw your application for the school you are appealing for before the hearing your appeal will be cancelled.

What can't I appeal for?

You do not have a right of appeal for:

- different year group
- SEN resource provision
- special school
- summer born deferment
- alternative provision.

However, you may make a complaint in accordance with the relevant published complaints procedure.

How do I appeal?

Before deciding whether to appeal, you will probably want to think about the school's published policy for admitting pupils, your reasons for wanting your child to attend the school, your child's view of what school they should attend and how strong your case is.

If you are not offered a place at the school you have named as your first preference, or any other schools where you named as preferences on your most recent application, visit www.newham.gov.uk/schoolsappeal or call **020 8430 2000** for details.

If you decide to proceed and lodge an appeal, upon receipt of your appeal NISAS will send you an acknowledgement which will also outline the next steps.

What happens next?

Ten working days before your hearing:

You will receive a letter from NISAS who are independent of the admission authority, telling you where and when your appeal will be heard. It will usually be during office hours at Newham Dockside, Newham Town Hall or another suitable venue.

You will also be sent a statement from the admission authority explaining why your child could not be offered a place at the school you are appealing for.

From when you lodge your appeal up to the day of the hearing you should be preparing your own case; this is known as your written representations. This should include any documents that can verify the facts, such as medical evidence.

To be guaranteed for consideration by the Independent Panel you must submit any written representations for receipt by NISAS at least 24 hours before the hearing. Any new evidence received after this date or presented as oral (spoken) representations during the hearing may not be considered or may result in a fresh date being set before your hearing starts or an adjournment on the day.

Who is present at an Independent Appeal Panel?

The school's admissions authority, or the clerk acting on behalf of the admissions authority, must appoint an independent appeal panel that comprises a chair and at least two other panel members. In Newham the panel is made up of three independent people and our panels will consist of the following persons, with at least one from each category:

- a) Lay people (someone without personal experience in the management of any school or provision of education in any school (except as a school governor or in another voluntary capacity)
- b) people who have experience in education, who are acquainted with educational conditions in the local authority area.

Members of the panel will have no link to your child's current school or the school you are appealing for or any other school that forms part of your case.

If you know one of the panel members you must declare this to NISAS before the hearing starts, advising them of how you know them.

Admissions authorities will ensure that panel members are independent and retain their independence for the duration of their service.

One of the panel members will be the Chair; they are responsible for the conduct of the hearing including introducing the parties and explaining the roles of the clerk and the panel, explaining how the hearing will be conducted, and ensuring that the parties have sufficient opportunity to state their case.

Also in the room will be an independent clerk and the admission authority's Presenting Officer.

The clerk's role is to provide an independent and impartial service. They will provide an independent source of advice (or information on how to seek appropriate advice) on procedure and on admissions law; keep an accurate record of proceedings by taking detailed notes; and provide the parties with written notification of the panel's decision.

The Presenting Officer's role is to present the admission authority's decision not to admit the child and to provide detailed answers to any questions about the case being heard and about the school.

At some appeals there may be an observer, who could be there for training purposes to ensure proceedings are being carried out correctly – they will play no part in the hearing.

What happens at the hearing?

The hearing is quite informal. You are strongly advised to attend. You can take a friend or relative if you wish, but remember that the hearing is informal and legal representatives are rarely needed. A friend, relative or representative could be a locally elected politician, or an employee of the local authority, such as an educational social worker, SEN advisor or learning mentor, provided this will not lead to a conflict of interest. If your English is limited please bring along an adult who can translate for you. Admission authorities cannot allow an employee of the school you are appealing for or a member of the admissions authority concerned to attend as your representative.

If it is not possible for you to attend, you may make your case in writing to be considered in your absence. If you do not attend your case will be presented for you using your exact words from your written representations.

Multiple 'Group' Appeals

Multiple appeals are when a number of appeals have been received in relation to the same school. Admission authorities must take all reasonable steps to ensure that multiple appeals for a school are heard by one panel with the same members. Where more than one panel has to consider appeals for the same school, each panel must make its own decision independently. A panel hearing multiple appeals must not make decisions on any of those appeals until all the appeals have been heard.

Multiple appeals may be heard either individually or in groups. Hearing multiple appeals individually means holding a series of consecutive appeal hearings. The panel must ensure that the presenting officer does not produce new evidence in later appeals that was not presented in earlier appeals as this would mean that appellants whose cases were heard earlier in the process would not have the opportunity to consider and respond to the new evidence. If new evidence comes to light during the questioning

of the presenting officer, the clerk must ensure that the panel considers what bearing that evidence may have on all appeals.

The order of the hearing for single (non grouped appeals) is normally:

- 1 Introductions
- 2 The Chair of the appeal panel explains the process to you
- 3 The Presenting Officer from the admission authority explains why your child could not be admitted to that school
- 4 You have the opportunity to ask questions on the admissions authority's statement to the officer from the parent, carer, friend or representative
- 5 You or your friend or representative explains why they think the child should be admitted to the school. You may give any evidence that may help your case
- 6 The Presenting Officer can ask you questions
- 7 The Presenting Officer from the admissions authority will sum up their case
- 8 The panel members can ask questions at any time throughout the hearing
- 9 You are then given the opportunity to sum up your case
- 10 If the Chair is happy that everyone has had an opportunity to sum up their case you and the Presenting Officer from the admission authority will be asked to leave.

For group appeals the order of the hearing is the same but the Presenting Officer will state his case to a group of parents/carers all appealing for the same school, in the same year group. As a group you will then have an opportunity to question the Presenting Officer; all parties will hear the questions and the answers. Following this grouped stage each parent/carers will then have a private hearing where they present their own case.

How does the panel make its decision?

Apart from appeals to reception and Year 1 and 2 classes (see below), the panel has to go through a two-stage process:

Stage 1: 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

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

Stage 2: If the appeal panel is satisfied with the admissions authority's case, it then looks at the case presented by the parent/carers.

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 'group' 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 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 must uphold the appeals of at least that number of children.

Admission appeals to a Reception class, Year 1 and Year 2

Regulations 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. Only in very limited circumstances can admission over the limit be permitted.

The School Standards and Framework Act 1998 (SSFA 1998) subsequently amended by The Education Act 2002, placed a duty on local authorities and the governing bodies of maintained schools to limit the size of infant classes to 30 pupils per teacher. The infant class size limit was imposed in relation to the 2001/02 school year and subsequent years.

As a result of Infant Class Size Legislation, the appeal panel is limited in the way they can make a decision on your appeal. This significantly reduces the possibility of your appeal being successful.

Where a child has been refused admission to a school on infant class size prejudice grounds, an appeal panel can only offer a place to a child where it is satisfied that either:

FACT A whether the admission of an additional child/ additional children would breach the infant class size limit;

FACT 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;

FACT C whether the admission arrangements were correctly and impartially applied in the case(s) in question;

Then the panel goes on **FACT D** Did the Authority act "unreasonably". The word "unreasonable" is a legal "test word".

The threshold for finding that an admission authority's decision to refuse admissions 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' 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'.

The "facts of the case" include the published admissions arrangements, the internal operation of the school and your own circumstances. It is for the Appeal Panel to decide whether it was unreasonable or perverse. The allocation of an alternative school is not part of the process when deciding places at your chosen school.

When multiple appeals are grouped, the presenting officer's case is usually heard in the presence of all the appellants at the beginning of the hearing (or sometimes at the start of each day when a hearing runs over a number of days). The appellants' cases are then heard individually without the presence of other appellants.

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

The decision of the Independent Appeal Panel is binding on the admission authority.

However, if you feel that the correct procedures for your appeal were not followed, you may complain to the Local Government Ombudsman in respect of maintained schools.

If the Ombudsman agrees with your complaint, they may make recommendations for a suitable remedy. For example, they may recommend that an appeal is reheard by a different panel and with a different clerk. The Ombudsman is not able to overturn the appeal panel's decision.

Appellants considering making a complaint can contact Local Government Ombudsman.

Call **0300 061 0614**

Visit **www.lgo.org.uk**

Email **advice@lgo.org.uk**

or write to them at:

Local Government Ombudsman

PO Box 4771

Coventry CV4 0EH

The Secretary of State cannot review or overturn an appeal decision relating to a maintained school. An appeal panel's decision can only be overturned by the courts where the appellant or admission authority is successful in applying for a judicial review of that decision.

Education Funding Agency

This section only applies for academies and free schools.

If you have appealed for a place at an academy located in Newham and you are concerned the appeal did not comply with the Code or was set up incorrectly, and this affected the outcome of the appeal, you can complain to the Education Funding Agency (EFA) within six months of the date of the appeal hearing. The EFA will investigate the complaint on behalf of the Secretary of State if it considers there are sufficient grounds to do so.

You can submit your completed complaint form by email to: **academyquestions@efa.education.gov.uk**

or by post to the following address:

Academy Admission Appeal Complaints Academies

Central Unit,

Education Funding Agency

8th floor, Earlsdon Park Butts Road,

Coventry CV1 3BH

The Secretary of State for Education has no power to review the decisions of individual appeal panels.

To appeal for a place in a state funded independent school within Newham or a school outside of Newham, you will need to check the school's website to find out how to appeal. However, the timeline and order of appeal will be the same.

For Appeals heard up to 01.07.2018

Admission Appeals Results			
Year Group	Appeals Heard	Upheld	Not Upheld
Reception 2018-2019	55	1	54
Reception 2017-2018	74	1	73
1	11	0	11
2	2	0	2
3	3	0	3
4	1	0	1
5	3	0	3
6	0	0	0
Total	149	2	147

For further information

Please visit the following websites:

Primary and secondary school admissions and appeals: a guide for parents **www.direct.gov.uk**

Advisory Centre for Education **www.ace-ed.org.uk**

Coram Children's Legal Centre **www.childrenslegalcentre.com**