

How waiting lists operate

This guidance applies to community and voluntary controlled schools in Wiltshire. Academies, voluntary aided and foundation schools have their own waiting list arrangements.

Whenever a child is refused admission to a school his or her name is automatically added to a waiting list. This means that, for any year group of a school that is oversubscribed, there will be a waiting list.

Where the application was made for admission in the school year 2015-16 waiting lists will close on Wednesday 22 July 2016. If any parents believe that they will have a continuing desire for their children to attend the preferred school in the school year 2016-17, they must submit a fresh application for the school for a place from September 2016, which should be submitted to the council by Friday 25 March 2016. If the application is subsequently refused, the child will then be added to a fresh waiting list for the 2016-17 school year.

The government's *Code of Practice* on school admissions requires that positions on a waiting list must follow the same order as the local authority's published admission criteria. For community and voluntary controlled schools in Wiltshire these criteria are:

- a) children in the care of a local authority;
- b) vulnerable children (i.e. children of registered asylum seekers or children with severe medical conditions);
- c) for junior schools only, children currently attending the linked infants school;
- d) children who live in the school's designated area who have a sibling already at the school;
- e) other children who live in the school's designated area;
- f) children from outside the school's designated area who have a sibling already at the school;
- g) children of members of staff of the preferred school;
- h) other children to whom none of the above apply.

The straight-line distance from the home address to the school is used as a tie-breaker within each of the above criteria with the nearest children accorded the highest priority.

The *Code of Practice* goes on to state the waiting lists **should not** give any priority based simply on the date a child's name was added to the waiting list. It is possible therefore that over time a child's position on a waiting list can change. There are two reasons for this.

- a) A waiting list can be lengthened. This happens when any future applications for new pupils are refused. It is important to understand that these pupils are not added to the end of the waiting list but inserted in accordance with their criterion for admission and distance of the home address from the school. Thus a new application for a child with a higher priority for admission than any of the children already on the waiting list would force all those other children down by one position each.

- b) A waiting list can be shortened. This would happen if any places were freed at the preferred school. Any freed place would be offered to the child at the top of the waiting list. If the place is accepted then all the other children on the waiting list would go up by one position. If the place were declined then the child in top position would be removed from the waiting list and the child in next position offered the place.

The position of a child on a waiting list can also change as the result of a change of address. It should be noted, however, that the change in position takes effect only when definite evidence of the house move has been received by the local authority.

The local authority will accept the following as evidence of a future house move:

- a) a solicitor's letter which confirms that an exchange of contracts has been made;
- b) a tenancy agreement of at least six months' duration; or
- c) a letter from the Defence Housing Association that confirms a service family's new address.

Parents or guardians must notify the local authority of any material changes in their circumstances, such as an intended house move, as this may affect their child's position on the waiting list.

Parents or guardians can ask for their children to be removed from the waiting list at any time.

The operation of a waiting list does not affect the parent or guardian's right of appeal for the child. The appeal process offers a separate course of action that parents and guardian's can undertake. Neither lodging nor withdrawing an appeal changes the child's position on the waiting list. Equally the child's position on a waiting list does not necessarily impinge on the outcome of an appeal.

In an appeal the panel members will ultimately adjudicate an appeal on the basis of whether:

- a) the local authority has adequately proved that either the school, year group or class to which admission is sought is full;
- b) any mistake has been made by the local authority that might have incorrectly denied the child a place at the preferred school;
- c) the decision to refuse the child admission to the preferred school, given their circumstances, is not one that any reasonable authority would have made; or
- d) the case made by the parent is sufficiently strong to prevail over the fact that the school, year group or class is full.

In the case of an appeal for an infant class of thirty or more pupils (d) cannot be taken into consideration by the appeal panel.

Unless the circumstances of the child changes significantly only one appeal is allowed to be made for each school year. Thus, if a parent had already appealed unsuccessfully for a place at the preferred school for admission in the 2015-16 school year, another appeal cannot be made for admission in the same school year at a later date. Parents can apply for admission in the following school year. Such applications would be considered in late April or early May of 2016 and, if again refused, the parent would have a right of appeal that they could exercise in the summer term of 2016 or even within the 2016-17 school year.

WILTSHIRE COUNCIL
SCHOOL STANDARDS AND FRAMEWORK ACT 1998
APPEAL AGAINST ADMISSION DECISION

If you wish to appeal against the refusal of a place at a school, please return the completed form, together with any supporting documents **WITHIN TWENTY-ONE DAYS** of the date of your refusal letter to the Clerk to the Appeal Panel, Democratic Services, Wiltshire Council, Bythesea Road, Trowbridge, Wiltshire. BA14 8JBN

Please write clearly, using black ink as this form has to be photocopied.

Name of Pupil		Date of Birth	
Name & Initials of Parent/Guardian (Mr./Mrs./Miss/Ms.)			
Address		Contact Details Home Tel no: Work: Mobile: E-mail:	
The School you are appealing for		From (date)	
The School your child currently attends (where applicable)			
The alternative school offered			
Appeals are heard Mon-Fri during office hours (9-5.pm) Please indicate any days/times you CANNOT attend.			
Please use this space to tell us anything about your access needs (e.g. do you need an interpreter, large print, wheelchair access, loop system?)			
Do you require 14 days' notice of the appeal hearing date? YES/NO If your answer is NO, please complete and sign below. I confirm that I waive my right to 14 days' notice of the appeal hearing date. Signed Date			

DELETE AS APPROPRIATE

1. The grounds for my appeal are set out overleaf (you may attach additional sheets to this form).
2. The grounds for my appeal will be sent at a later date.
3. I wish/do not wish to attend the appeal panel hearing.
4. I will/will not be accompanied. My companion will be

Signature of parent(s)/guardian(s)

Date

The grounds for my appeal are as follow



A parent's guide to school admission appeals

**Please read this guide before
completing your appeal request form**

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Translation Service

This booklet can be translated into another language if you ask us to.

Please contact Democratic Services on 01225 771617 or 01225 713035 or email us at educationappeals@wiltshire.gov.uk

Introduction

We understand that going through the appeal process can be a worrying and anxious time for you and we hope that the information contained in this guide will simplify the process for you. It will take you through the appeal process, explain what happens at each point and what you need to do.

Your rights

You have the right to appeal for places at all schools for which you have applied and been refused a place. This right of appeal does not apply if your child has been permanently excluded from two schools. If your child has a Statement of Special Educational Needs your appeal needs to be directed to the Special Educational Needs and Disability Tribunal (SENDIST). Please visit their website at:

www.sendist.gov.uk

You can only appeal once in every academic year unless there has been a significant change in your circumstances. If this is the case you need to reapply for a place at the school and be refused before you can appeal. You can only appeal for the year group for which you have been refused.

Where to send your appeal form

Your completed form should be marked “Private and confidential” and returned to:

**Education Appeals
C/O Democratic Services
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN**

Please do not assume that a first class stamp will ensure delivery the following day. If you are close to the published closing date consider using a guaranteed next day means of delivery – ask at your Post Office.

We cannot be held responsible for forms that do not arrive on time; that are lost in the post; that are sent or delivered to other locations.

Types of appeal

On-time intake or transfer appeals

These are where your child is entering:

- Reception year
- Year 5 in middle school
- Year 7 in high school
- Year 9 in upper school

and where we have received your appeal form **on or prior** to the published closing date.

Late intake or transfer appeals

These are where your child is entering:

- Reception year
- Year 5 in middle school
- Year 7 in high school
- Year 9 in upper school

and where we have received your appeal form **after** the published closing date.

Mid-year appeals

These are where you wish your child to move schools during other times in the academic year, i.e. because the family has moved house. These appeals have no published closing date and are heard throughout the year.

Infant class size appeals

This type of appeal can only apply to applications for reception, Year 1 and Year 2 (key stage 1), i.e. any class in which the majority of children reach the age of 5, 6 or 7 during the school year. Legally such classes cannot have more than 30 pupils with a single qualified teacher. Not all appeals involving these year groups are covered by infant class size restrictions. **Your refusal letter from the admission authority will tell you whether or not your application has been turned down because of infant class size legislation.**

There are very limited chances of success for Infant class size appeals. The panel can only offer a place where it is satisfied that:

- a) The admission of additional children would not breach the infant class size legislation; or
- b) 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 been complied with or had been correctly and impartially applied; or
- c) The decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

In order to determine whether it was “unreasonable” to refuse admission to your child, the panel must be satisfied that the decision was **“perverse in the light of the admission arrangements”**.

For example – 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 Local Government Ombudsman fact sheet on Complaints about Infant Class Sizes does state that *“A decision that makes it impossible for you to transport all your family to school on time, or even impossible for you to continue working, is very unlikely to be perverse. The courts have established this.”*

Important deadlines

Received on-time - Intake or transfer appeals for primary schools

All on-time intake or transfer appeals for the primary round will be heard before the end of the summer term of the academic year in which they were made. Upon receipt of your appeal we have 40 school days to hear it.

Received late - Intake or transfer appeals for primary schools

We do aim to hear all late intake or transfer appeals at the same time as the on-time appeals for a particular school. However, if this is not possible your appeal will have to be heard at a later date (in the next academic year, usually late September – early October).

Received on-time - Transfer appeals for secondary schools

On-time intake or transfer appeals must be heard by 6 July of the academic year they were made. Appeals received within reasonable time to be included before this date will be heard. Upon receipt of your appeal we have 40 school days to hear it.

Received late - Transfer appeals for secondary schools

We do aim to hear late transfer appeals at the same time as the on-time appeals for a particular school. However, if this is not possible it will have to be heard at a later date.

Mid-year appeals

All mid-year applications will be heard within 30 school days of the appeal being received by us.

Completing the appeal form

If you are appealing for a place at more than one school, you must complete separate forms.

Please take the following information into account when you fill in the form:

- Please complete the form clearly and ensure that you provide all the information requested. If you don't this may result in a delay in processing your application.
- Your "reasons for appeal" are very important as this helps the panel understand your child's case. **This section must be completed. If not the form will be returned to you.** Please explain, as fully as you can, why you want your child to attend the school that you have been refused. If you think your application for a place at the school has not been treated correctly or in accordance with the admissions criteria, then you should explain why.
- If there are medical issues involved, it is important that these are supported by written evidence, i.e. doctor's letter.
- If your case is based on a house move, you should provide written evidence to confirm this. For example, a letter from your solicitor or a copy of your tenancy agreement.
- You may also include other relevant letters, correspondence, reports or documents to support your case.
- You don't need to wait until you have all supporting evidence before you send your form to us as this may delay the processing of your appeal. Supporting evidence can be sent in later.
- If, for any reason, you cannot attend the appeal hearing the panel will make a decision based upon what you have sent in.
- Please make sure you sign and date your form.
- Please send the completed form **to the address stated on page 7.**

What happens next?

- When your completed form is received by the democratic services department of Wiltshire Council it is date stamped and an acknowledgement letter sent to you. This will be done by email if you have provided us with your email address, or by post.
- The democratic services department inform the admission authority (i.e. Wiltshire Council) that your appeal application has been received and agree appeal hearing dates which comply with statutory timescales.
- If there is more than one appeal for the school in question, all appeals will be heard at the same appeal hearing if possible.
- Once a date is agreed an independent appeals panel will be organised, together with a clerk and a suitable venue.
- You will receive a letter at least 10 school days before the hearing advising of the date, time and venue of your appeal hearing. Given the number of appeals received and other factors it may not always be possible to take into consideration any dates which you have indicated as inconvenient. The letter will give you a deadline by which additional supporting evidence can be accepted. The deadline is necessary because paperwork has to be sent to all parties within a statutory timeframe. **If you cannot get your additional supporting evidence to the office by this deadline, you may bring it with you to the appeal hearing – (please bring six copies). However, please bear in mind it is up to the panel to decide whether any material not submitted by the specified deadline is considered. They will take into account its significance and the affect any possible adjournment may have on the hearing.**
- You will receive another letter approximately seven working days before the hearing date. The letter will include all the paperwork necessary for the hearing to take place. It will include a list of the panel members, clerk and presenting officer from the admission authority; the refusal letter; the admission authority's case and your appeal form along with any additional supporting evidence you have provided. This paperwork is also sent to the admission authority, panel members and clerk. If you know any of the panel members listed where there may be a conflict of interest, please contact the democratic services office at Wiltshire Council immediately to discuss.
- If you have indicated on your form that you **will be** attending the appeal hearing and you subsequently find that you are unable to, please let us know. If you fail to attend when you have indicated you will and we have not heard from you, the panel will consider your written case in your absence.
- If you have indicated on your form you **will not be** attending the appeal hearing and you subsequently find that you can, please let us know so we hear your appeal at the scheduled time.
- If you have agreed to waive your rights to 10 school days notice of your appeal hearing date, it may be possible to hear your appeal earlier. This is because timetables are constantly being amended due to appeals being withdrawn or settled and it may be possible to add other cases to a timetable.

Who will be at the appeal hearing?

- You and anybody else you have told us you wish to bring along for support.
- If you cannot attend, your representative- if you have said you will send one in your place.
- Three panel members – this will be a mixture of lay members and non-lay members:
 - “**Lay member** – 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);
 - Non-lay member** – people who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.”
- The clerk – the clerk will be your main contact on the day. He/she will be there to meet you and to answer any questions you may have before the hearing.
- An officer from the admission authority and possibly a representative from the school in question.

Sometimes there may be an observer at the hearing. This may be someone who is training to be a clerk or a panel member. They will take no part in the hearing or decision making.

What happens on the day?

- Please arrive at the venue promptly (preferably 5-10 minutes early) and report to the reception area.
- There may be other parents there appealing for the same school or other schools.
- The clerk will meet you and explain what will happen during the appeal hearing. The clerk will also answer any questions about the procedure you may have. If you have any additional supporting evidence that you wish the panel to consider, please hand your six copies to the clerk at this time.
- All parents appealing for the school in question and the school's representative(s) will be invited into the appeal room. The chair of the panel will introduce the panel members and explain what will happen during the meeting.

Appeals excluding Infant Class Size

- The appeal hearing will begin with stage one. If there is more than one appeal for the school in question, all parents will attend this part of the appeal hearing. The admission authority is invited to explain to the panel why they have had to refuse a place at the school. The panel will check whether a mistake was made in applying the admission arrangements and if the school could take extra pupils without any adverse impact on the standard of educational provision. The panel members will also consider whether the admission arrangements are lawful. They then have the opportunity to question the admission authority and will invite you (and any other parents) to do the same. If you have any questions about the school's case this is the time to ask them. Any questions about your personal case must wait until stage two.

- When stage one is finished, you (and any other parents), the admission authority and the school representative(s) will be asked to leave the room.
- The clerk and the panel have to decide whether or not the school has made its case.
- Once a decision has been made, the clerk will ask you (and any other parents), the admission authority and the school representative(s) to return to the appeal room and the decision will be announced.
- If the decision at stage one is that the school has not made its case, it **may** be that you are offered a place at this point.
- If the decision at stage one is that the school has made its case, the appeal hearing goes to stage two.
- Stage two is your own personal and private meeting with the panel. No other parents will be at this meeting. You will be asked to put your own case forward in whichever way you find easiest. You may wish to just highlight the important points of your written case; you may wish to read out your written case or you may wish somebody else to read out your written case.
- The panel will ask you questions about your case and the admissions authority and school representative (if present) may wish to ask you questions.
- The chair will make sure you have covered all points that you wanted to make and will ask if you feel you have had the opportunity to fully put your case to the panel.
- At the end of stage two you, the admission authority and the school representative will be asked to leave the room. This is also the end of your participation in the appeal hearing and you are now free to leave.
- If there are other parents appealing for the school in question, they will have their stage two hearing.
- When all parents have completed stage two, the clerk returns to the appeal room and the panel make its decisions.
- You will receive a telephone call either later that day or the following day to be told the outcome of your appeal. This will be followed by a letter, usually within five days of the appeal hearing, confirming the panel's decision and the reason(s) for their decision.

Infant class size appeals

- The appeal hearing will begin with the admission authority's representative explaining to all parents who are appealing the reasons why no more children can be admitted to the school.
- The panel then has the opportunity to question the admission authority's representative and will invite you (and any other parents) to do the same. If you have any questions about the schools case this is the time to ask them.
- You and any other parents and the admission authority's representative then leave the appeal room while the panel consider the schools case.

- You will then be invited back into the appeal room for your private appointment with the panel to explain your case. No other parents will be present.
- The panel then has the opportunity to question you and will invite the admission authority's representative to do the same.
- You and the admission authority's representative will then be asked to leave the room. This is the end of your participation in the appeal hearing and you are now free to leave.
- The other parents will have their appeals heard in private.
- When all parents have had their appeals heard, the clerk returns to the appeal room and the panel will then make their decision.
- You will receive a phone call from the clerk either later that day or the following day to be told the outcome of your appeal. This will be followed by a letter, usually within five days of the appeal hearing, confirming the panel's decision and the reason(s) for their decision.

Further advice and complaints information

Democratic services are unable to offer personal advice about your child's appeal. We can, however discuss procedures, administration and legislation and can be contacted at educationappeals@wiltshire.gov.uk or by telephone on 01225 771617 or 713035.

For information regarding availability of school places and waiting lists, please contact our admissions team at admissions@wiltshire.gov.uk or by telephone on 01225 713010.

The internet is probably the best place to go to find more information and we recommend that you begin by visiting the Advisory Centre for Education (ACE) website as www.ace-ed.org.uk or by telephone on 0808 800 5793.

If you want to learn more about the Admission Appeals Code you can visit the Department of Education's website to view the code at www.education.gov.uk

The Local Government Ombudsman can investigate written complaints about maladministration on the part of a panel hearing appeals for a maintained school (not an Academy). This is not a right of appeal. Maladministration covers issues such as a failure to follow correct procedures or a failure to act independently or fairly – **not complaints where a person simply feels that the decision taken is wrong**. Contact details are as follows:

Web: www.lgo.org.uk

Helpline: 0845 602 1983

Address: 10th Floor, Millbank Tower, Millbank, London, SW1P 4QP

Frequently asked questions

Q. Do I have to pay for the appeal?

A. There is no charge to parents for appeals.

Q. Can I ask the panel to contact anyone, such as my doctor or social worker, to confirm what has been said on my appeal form or at the hearing?

A. No. You are responsible for making sure that the panel has any written supporting evidence at the hearing.

Q. What documents or information can I add to my appeal notice?

A. In your case you can mention all the reasons why that school would be best school for your child, and what special factors justify your child getting a place. There is no information you cannot include and everything you say or write will be handled in confidence.

Q. How long will the hearing take?

A. This is difficult to say, however, generally for mid-year appeals both stage one and stage two take about half an hour each. In multiple intake or transfer appeals, stage one could take forty-five minutes to an hour and stage two about thirty minutes; but it really depends on the complexity of the cases being heard.

Q. Can I bring a friend to the appeal hearing?

A. Yes. You can bring somebody with you either to support you or to speak on your behalf.

Q. Do I need to bring my child with me?

A. No, we actually advise against it. None of our venues have facilities for children and attendance at the appeal hearing may result in an unauthorised absence from school. Your child may also find the hearing difficult and confusing.

Q. How does the panel reach a decision?

A. The appeal panel reaches a decision in private, by a majority vote. If the panel is considering a large number of appeals about the same school, they will not make a decision about an individual case until all parents have had a chance to put their case forward.

Q. Where are the appeals heard?

A. At suitable independent and accessible venues in the Wiltshire area. We usually try to hold hearings at a venue which is in close proximity to the school(s) in question.

Q. I am appealing for other children. Will their appeals be heard on the same day?

A. We do our best to hear the appeals on the same day. However this is not always possible.

Q. Can I change the date or time of my appeal?

A. We will do our best to accommodate your needs but due to timetabling, statutory timeframes and numbers of appeals being heard on the same day this is not always possible.

Q. What should I do if I change my mind about appealing?

A. If you decide to withdraw your appeal, please let the democratic services department at Wiltshire Council know as soon as possible – 01225 771617 or 01225 713035.

- Q. Do I need to instruct a solicitor to represent me at the appeal hearing?**
A. No. All panel members are independent and fully trained. They are used to talking to parents and will do their best to put you at your ease. However, if you feel it necessary, you may be represented by a solicitor if you wish.
- Q. Who will represent the school?**
A. If you are appealing for a local authority school, a representative from the local authority will present the school's case. There may also be a representative from the school who will be there to answer very specific questions in connection to the school's practices.
- If you are appealing for an Academy, either a representative of the academy trust and/or a representative of the local authority will present the school's case; depending on whether the Academy has an agreement with the local authority.
- Q. We are currently living abroad/outside of Wiltshire. Can we send somebody to represent us?**
A. Yes. Contact the democratic services department at Wiltshire Council on 01225 771617 or 01225 713035 for further advice.
- Q. My child's name is on a waiting list. Will my appeal affect my child's place on that list?**
A. No. If your appeal is unsuccessful your child's name will stay on the waiting list. If you win your appeal your child's name will be removed from the waiting list. For further information about waiting lists please contact our admissions team on 01225 713010.

WILTSHIRE COUNCIL
SCHOOL STANDARDS AND FRAMEWORK ACT 1998
APPEAL AGAINST ADMISSION DECISION – INFANT CLASS SIZE

We/I (name)
of (address)
.....

Tel No: Work..... Home Mobile

wish to appeal against the decision to refuse a place for our/my son/daughter:

Name Date of birth.....

at(School / Academy)

Please answer the following questions

1. Do you have any reason to think this is *not* an Infant Class Size appeal (as explained in the guidance notes for parents) and if so, why?

2. Do you believe the Local Authority has *not* implemented its admission arrangements correctly or complied with the mandatory requirements as set out in the School Admissions Code published by the Department for Education and Part 3 of the School Standards and Framework Act 1998? Please give reasons.

3. Do you consider that the decision reached to deny your child a place at your preferred school is one which is unreasonable to an outrageous degree (as explained in the guidance notes for parents on pages 4 & 5)? If so, please explain why.

4. Are there any other factors you would wish to draw to an appeal panel's attention which would make the refusal decision wholly unreasonable in the specific circumstances of your child?

Signed

Dated

Please return this form to: Clerk to Appeal Panel
Democratic & Member Services
County Hall
Bythesea Road
Trowbridge, BA14 8JN