

**A GUIDE TO MILTON KEYNES SCHOOL  
ADMISSION APPEALS AFFECTED BY  
“INFANT CLASS SIZE LEGISLATION”**

Record your five-digit  
reference number here:  
(see page 3)

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## **INTRODUCTION**

This appeal booklet provides information for a statutory appeal against the refusal of the Admission Authority to allocate your child to your preferred primary school. References to Admission Authority in this booklet mean either the council itself or, in the case of Foundation or Voluntary Aided Schools, the Governing Body of that school. The Admission Authority for an Academy is the Academy Trust.

The law allows a person with parental responsibility for a child to appeal against the decision of the Admission Authority to an impartial body known as the Independent Appeal Panel ("IAP"). References to a parent in this booklet mean a parent or a person with parental responsibility.

The IAP has the power to decide whether the child should be offered a place at the preferred school and the Admission Authority must comply with the IAP's decision. However, because the place is in a classroom with other children who will be aged five, six or seven during the school year, the law does not allow the Admission Authority to exceed 30 children in classes of this type with a single school teacher. This is called "Infant Class Size Legislation".

**Although parents have a legal right to appeal, the grounds for upholding an appeal of this type are very limited and therefore the percentage success rate is minimal.**

The appeals for your preferred Milton Keynes School are organised independently by the Appeals Team at Buckinghamshire Law Plus and you must return your appeal form to them at the address below. This booklet explains how Admission Appeals affected by Infant Class Size legislation work and the steps that we take to make the appeal as straightforward as possible.

If you need further information, please do not hesitate to contact a member of the Appeals Team. Our contact details are as follows:

The Appeals Team  
Buckinghamshire Law Plus  
Room 51, New County Offices  
Buckinghamshire County Council  
Aylesbury, Buckinghamshire  
HP20 1UA

Telephone: 01296 383384/3677 Fax: 01296 382421

E-mail: [appeals@buckscc.gov.uk](mailto:appeals@buckscc.gov.uk)

## **1. LODGING AN APPEAL**

The enclosed blue appeal form should be returned to the Appeals Team within 20 school days of the notification date (this can be found on the top right hand corner of the form). This is the date on which the Admission Authority notified you that your application for your preferred school was unsuccessful.

You are able to appeal against each decision refusing you a place at a school. You are entitled to lodge more than one appeal if you wish but separate forms must be submitted for each school.

It is very important that you return your appeal form on time. If the appeal form is returned late, it is quite possible that there will not be an appeal appointment available for the school until later in the year.

If there is evidence that you wish the IAP to consider, it can be sent to the Appeals Team separately after returning the appeal form. You should not delay returning your form until you have gathered all of the evidence on which you wish to rely. We will write to inform you of the deadline to submit any further evidence for the appeal.

The appeal form must be posted to The Appeals Team, Buckinghamshire Law Plus, Room 51, New County Offices, Buckinghamshire County Council, Aylesbury, HP20 1UA. You can also email the appeal form to the following address; [appeals@buckscc.gov.uk](mailto:appeals@buckscc.gov.uk) Alternatively, you can deliver the appeal form by hand to the reception area of the offices of Buckinghamshire County Council at the above address

Due to the large number of appeals we receive, we are not able to confirm receipt of either the form or evidence over the telephone or collect forms in person from Reception. However, the staff on Reception will be pleased to provide you with a receipt for any documentation left with them.

**We aim to acknowledge receipt of your form within 7 working days. If an acknowledgement letter has not been received by this time, please contact our office.** The acknowledgement letter will provide a five-digit reference number, which will need to be quoted every time you contact us. There is a space on the front of this booklet to record this number. If you have any further supporting evidence you wish to send to us, please clearly write your reference number on this.

## **2. THE INDEPENDENT APPEAL PANEL MEMBERS**

IAP members are specially trained volunteers who have an interest in education within the local area. Each panel is made up of three members, a Chairman and two wing members and must consist of at least one Lay and one Non Lay member, in line with the School Admission Appeals Code of Practice. Lay members are people without personal experience in the management or provision of education in any school, disregarding experience in a voluntary capacity, such as a school governor. Non Lay members have experience in education and are acquainted with educational conditions in the area or they are parents of a registered pupil at a school.

Some people are not permitted to hear education appeals. This includes any person employed by the Local Authority or governing body of the school in question.

IAP members are trained regularly on the law and its procedures in relation to education appeals.

Where there is more than one parent appealing for a place at a school, the Appeals Team will try to arrange for all appeals received within the deadline to be heard by the same three IAP members.

## **3. BEFORE THE HEARING**

Appeals can take place at any time throughout the year as families move into the area and often find their preferred school full. Appellants have 20 school days from the date of refusal of allocation to their preferred school to return the appeal form. A minimum of 10 school days notice for a date of appeal will be given. Appeals do not normally take place during the school holiday dates.

The appeal will be at one of our suitable venues in Milton Keynes.

Please let a member of the Appeals Team know if you are a disabled person who requires reasonable adjustments to be made in order for you to participate in the appeal (for example, please let us know if you need an accessible venue).

If you need an interpreter, please let the Appeals Team know in good time so that one can be arranged.

In certain appeals, as detailed below, two separate appointment times may be given which may be on different dates.

#### **4. EVIDENCE FOR THE APPEAL**

When the Appeals Team notifies you of the date of the appeal, they will also notify you of the date by which any further evidence on which you rely (not submitted with your appeal form) must be received. We will also notify you that any information or evidence not submitted by the deadline might not be considered by the IAP at the appeal.

We will also ask you whether you intend to call any witnesses or be represented (by a friend or by a legal representative) at the hearing.

When you send your evidence to the Appeals Team please ensure that:

- The correct postage is used
- All documents are A4 in size (please reduce or enlarge any documents that are not A4)
- Do not fasten your documents by staples or treasury tags
- Do not place your documents in plastic or document wallets or binder/lever arch files
- Do not separate your documents by file dividers or by any other means

The Appeals Team do not have the resources to copy any documentation in colour.

**Please ensure the correct postage is attached, particularly when the appeal form is returned to us in a large format envelope. Insufficient postage could result in a time delay for the appeal or even result in it not being received.**

Due to time constraints and lack of appropriate facilities, there is no provision at any of our appeal hearing venues to make power-point, video or other audio/visual presentations.

#### **What evidence should I provide?**

As you are aware, for Infant Class Size appeals, there are very limited circumstances in which an appeal panel can direct a child to be admitted to a school.

When sending in evidence for an Infant Class Size Appeal you must be aware that the IAP can **only** consider the following three factors within an Infant Class Size appeal.

**a) that the admission of additional children would not breach the infant class size limit**

**b) that the admission arrangements did not comply with admissions law or were not correctly and impartially applied and that *your child would have been offered a place* if the arrangements had complied or had been correctly and impartially applied.**

**c) the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.**

As the above grounds for upholding an appeal of this type are very limited, the percentage success rate is minimal. In considering whether you wish to appeal in such circumstances, you must be aware that your personal reasons for wanting the school, however strongly you feel, cannot be taken into account unless any of the above circumstances apply.

## **5. ATTENDING THE APPEAL HEARING**

**We strongly recommend that parents attend the hearing.**

If you receive a date for your appeal that you are unable to attend, you may send a representative on your behalf. If you wish to send a representative on your behalf, that person must have signed authorisation from you that they have permission to represent you at the hearing. A copy of this signed authorisation should be given to the clerk immediately before the hearing or sent to the Appeals Team in advance.

**If you wish to withdraw your appeal, please make sure that you telephone us on 01296 383384 or email us at [appeals@buckscc.gov.uk](mailto:appeals@buckscc.gov.uk)** Appeal appointments are in demand and, with sufficient notice, we may be able to give your appointment time to someone else.

If a parent does not wish to, or finds that they cannot attend the appeal on the day, for whatever reason, the IAP members will make their decision based on the information available to them at the time. If you decide not to attend your hearing, please let us know in advance so the clerk does not have to telephone you on the day of your appeal and the IAP are not kept waiting, expecting you to arrive.

## **6. WHAT HAPPENS NEXT?**

A copy of the Admission Authority's case, (including their reasons for refusing your application), a copy of your own case, an Order of Business and a map of the venue will be sent out to all parties before the appeal. The Appeals Team aims to send this within seven working days of the appeal and all parties receive exactly the same information. **If you have not received your case papers within five days of your appeal date, please contact the Appeals Team.**

All parties are notified of the names of the clerk and the three IAP members that will hear the appeal. Please note that IAP members may be subject to last minute change.

The Admission Authority's case usually contains a map of the local area serving the school, together with any other statistical or relevant information.

IAP members will read the case papers in advance of the hearing.

**An appeal should last on average between fifteen and twenty minutes and the hearings are scheduled accordingly. Therefore, when planning what you wish to say at your appeal hearing, please keep in mind your allocated time and please consider that there are other parents waiting to be heard after your appeal.**

**Delays are sometimes unavoidable and your appeal may start later than the scheduled time.**

## **7. THE HEARING**

(Please see the flow chart on page 15)

On arrival at the appeal venue, please report to Reception. The clerk will collect you when it is time for your appeal.

An Infant Class Size appeal can be organised in two different ways depending on the number of appeals for the preferred school. It can be grouped ('Multiple Appeals') or individual.

(i) The Case for the Admission Authority

## Multiple Appeals – Grouped Hearing

If there is more than one appellant for the preferred school, the case for the Admission Authority will be heard in the presence of all the parents that are appealing for the school as well as the members of the IAP, the clerk and the Admissions Authority representative and/or school representative. This is known as the ‘Grouped Hearing’

The appellant will have the opportunity to question the Admission Authority about the reasons for refusing a place at the school and about the case, but this is not the time to raise points about individual circumstances or personal grounds for appeal.

### Individual Appeal

If there is only one appellant for the school, there will just be the IAP, the clerk and the Admission Authority and/or school representative in the room.

The procedure will follow the Order of Business you received with your case papers. You will be given the opportunity to ask the Admission Authority questions about their case. The Admissions Authority and the IAP may have some questions about your case.

The Admission Authority Representative will present the written case for the school, explaining that the relevant year group is full and that admission of an additional child would breach the infant class size limit. The Admission Authority will also explain how the admission arrangements have been implemented.

Once the case has been put by the Admission Authority, the appellant will be invited to present their individual case for appeal. For multiple appeals, this will be at the time and date you have been given for the Stage 2 part of your appeal. For individual appeals, the case for the parent will follow on immediately after the case for the Admission Authority.

### (ii) The individual case for appeal

This is your opportunity to state your grounds for appeal, bearing in mind that the IAP can **only** consider the following three factors within an Infant Class Size appeal.

**a) that the admission of additional children would not breach the infant class size limit**

**b) that the admission arrangements did not comply with admissions law or were not correctly and impartially applied and that *your child***

**would have been offered a place if the arrangements had complied or had been correctly and impartially applied.**

**c) the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.\***

*(\*The courts have defined an unreasonable decision in this context as being one which is "perverse in the light of the admission arrangements". The word 'perverse' has a stronger meaning in its legal sense. It means "beyond the range of responses open to a reasonable decision maker".)*

**You should clearly state which of the above factors you believe applies to your case.**

## **8. PRESENTING AN INFANT CLASS SIZE APPEAL CASE**

If you are appealing under ground a) you must show the basis for your claim that the infant class size limit would not be breached.

If you are appealing under b), you must show

- i. the admission arrangements have not complied with the School Admissions Code and Part 3 of the School Standard and Framework Act 1998 ("SSFA") and
- ii. had the admission arrangements complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standard and Framework Act 1998 ("SSFA"), **your child would have been offered a place.**

If you are appealing under c), you must show that the Admission Authority has made an "unreasonable" decision. As stated above, it is not the usual meaning of reasonable because, in this situation, it is the legal meaning. The courts have defined an unreasonable decision in this context as being one which is "perverse in the light of the admission arrangements". The word perverse has a stronger meaning in its legal sense, it means beyond the range of responses open to a reasonable decision maker.

**Please note 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 and therefore not an unreasonable decision. Any argument you provide alleging unreasonableness must therefore be a particularly strong one.**

If the IAP are hearing multiple appeals for the same school and find that a number of appeals should be upheld but to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the IAP must proceed to a further stage. At this stage it must compare the appellants' cases and decide which, if any to uphold. Where a school can admit a certain number of additional children without breaching the infant class size limit, then the IAP must uphold appeals for at least that number of children.

The IAP and the Admission Authority's representative will ask any questions they may have about the case. This is not in any way meant to be intimidating but the IAP will be trying to establish the significant points of the case during this time.

Once the appellants have presented their case and there are no further questions to be asked from either party, they will be given the opportunity to sum up and the appeal will conclude.

The Chairman will ask all parties if they have had time to say everything they wish to say. Please do make sure, at this stage, that you have mentioned all the reasons and provided all the evidence that you wish to. There will be no further opportunity to do so after you have left the room and the appeal is over.

The clerk will remain in the room with the IAP members whilst they make their decision. At no stage during the appeal should the appellant or the Admissions Authority representative be on their own with the IAP members.

The Admission Authority representative will not be able to discuss the appeal with the appellant or their representative either before or after the hearing. Should you have any queries on the admissions process for the school, you should contact them directly.

Once the appeal has ended all spare copies of evidence are treated as confidential waste and will be destroyed.

## **9. WHEN WILL THE DECISION OF THE IAP BE KNOWN?**

Whatever year of entry you are appealing for, the clerk will write to all parties no later than five school days of the hearing or five school days after the last appeal if there are several appeals for the school. **Decisions of the IAP are not given over the telephone or by email but are sent out by first class post.**

## **10. WHAT HAPPENS IF THE APPEAL IS UNSUCCESSFUL?**

The decision of the IAP is legally binding on all parties. However, where the appellant or Admission Authority is successful in applying for a Judicial Review of that decision, the High Court may order a re-hearing of the appeal.

If you feel that your appeal has not been handled properly, you may lodge a complaint in the first instance to the Appeals Team, who will investigate your comments. You will usually receive an acknowledgement within ten working days, which will indicate when you are likely to receive a full response. In line with the Council's Feedback and Complaints Procedure you should receive a full response within 28 days of your initial letter.

If the Appeals Team considers that the appeal was held correctly and in line with the relevant law and guidance, you will be advised of this decision.

If a complaint is dismissed by the Appeals Team, a parent may refer their complaint to the Local Government Ombudsman (LGO), unless the school being appealed for is an Academy. If the appeal is for an Academy School, you will need to make your complaint to the Education Funding Agency (EFA), who will investigate the complaint on behalf of the Secretary of State if it considers that there are sufficient grounds for doing so.

Contact details for the LGO and the EFA can be found on page 18.

## **11. WHO IS THE LOCAL GOVERNMENT OMBUDSMAN AND WHO IS THE EDUCATION FUNDING AGENCY?**

The LGO is an independent person who investigates allegations of maladministration causing injustice to the person who has complained. The LGO investigates complaints about most local authority services and can look into cases where there has been a fault in the way admissions to community, foundation or voluntary-aided schools have been handled. The LGO cannot question what has been done or decided because the appellant does not agree with it. For example, the LGO could criticise a case where there was evidence of some administrative fault, which affected the decision of the IAP, but could not criticise a decision which fairly took into account all the evidence presented by both the parents and the Admission Authority, but the parents disagreed with the decision reached.

The LGO will also normally accept complaints about appeals even if they have not yet been raised with the Appeals Team. Therefore, you may

decide that you do not want to wait for a full response from the Appeals Team before approaching the LGO, depending on the timescale you have been given.

The EFA carries out certain functions in relation to Academies on behalf of the Secretary of State. One such function is to consider complaints about independent appeal panels for admissions to Academies. Like the LGO, the EFA cannot review or overturn the decisions of independent admission appeal panels. It can only consider whether panels were set up and acted in accordance with the School Admission Appeals Code.

The Appeals Team will be unable to enter into any further correspondence once a decision has been made by the LGO or the EFA, even though the parent may still be dissatisfied.

## **12. FREQUENTLY ASKED QUESTIONS**

*My child has a disability. Will this affect my appeal?*

If your child has a disability you may wish to discuss your appeal with his or her Headteacher and the Special Educational Needs Co-ordinator at the school. There is a space on the blue appeal form for you to tell us if your child is disabled and you should declare it if you believe this to be the case.

The IAP must consider whether your child is disabled and whether there has been discrimination within the meaning of the Equality Act 2010. Training takes place every year and is designed to make sure that appeal panels are aware of the laws and good practice in this area so that any decision they make is a lawful and fair one.

*What do I do if I need special arrangements and/or a translator for the hearing?*

Contact a member of the Appeals Team and we will try to make arrangements to accommodate you. If we are given sufficient notice, a translator can normally be provided at your request. Please, therefore, let us know as soon as possible if you require this free service.

*Do I need legal representation?*

An IAP hearing is not a court of law and so legal representation is not necessary. It is your decision to take your own legal advice if you wish. It is important that you let us know at least seven days before your appeal hearing if you intend to bring a legal representative. We must inform the

Admission Authority and panel of your intentions and we may have to make new arrangements for you.

*Can a friend accompany me to the hearing?*

Parents may be accompanied or represented by a friend or advisor provided they are not an employee of the school in question.

*I'm interested in becoming an IAP member – how do I express an interest?*

Many of our IAP members started out as parents appealing on their own children's behalf and felt they were interested in becoming a panel member. If you are interested in becoming an IAP member in the future, please telephone a member of the Appeals Team. We currently have a pool of approximately 80 IAP members and are always keen to hear from interested members of the public.

This advice has been prepared with reference to the statutory requirements and the School Admission Appeals Code.

The Appeals Team  
Buckinghamshire Law Plus  
Buckinghamshire County Council

# REMEMBER.....

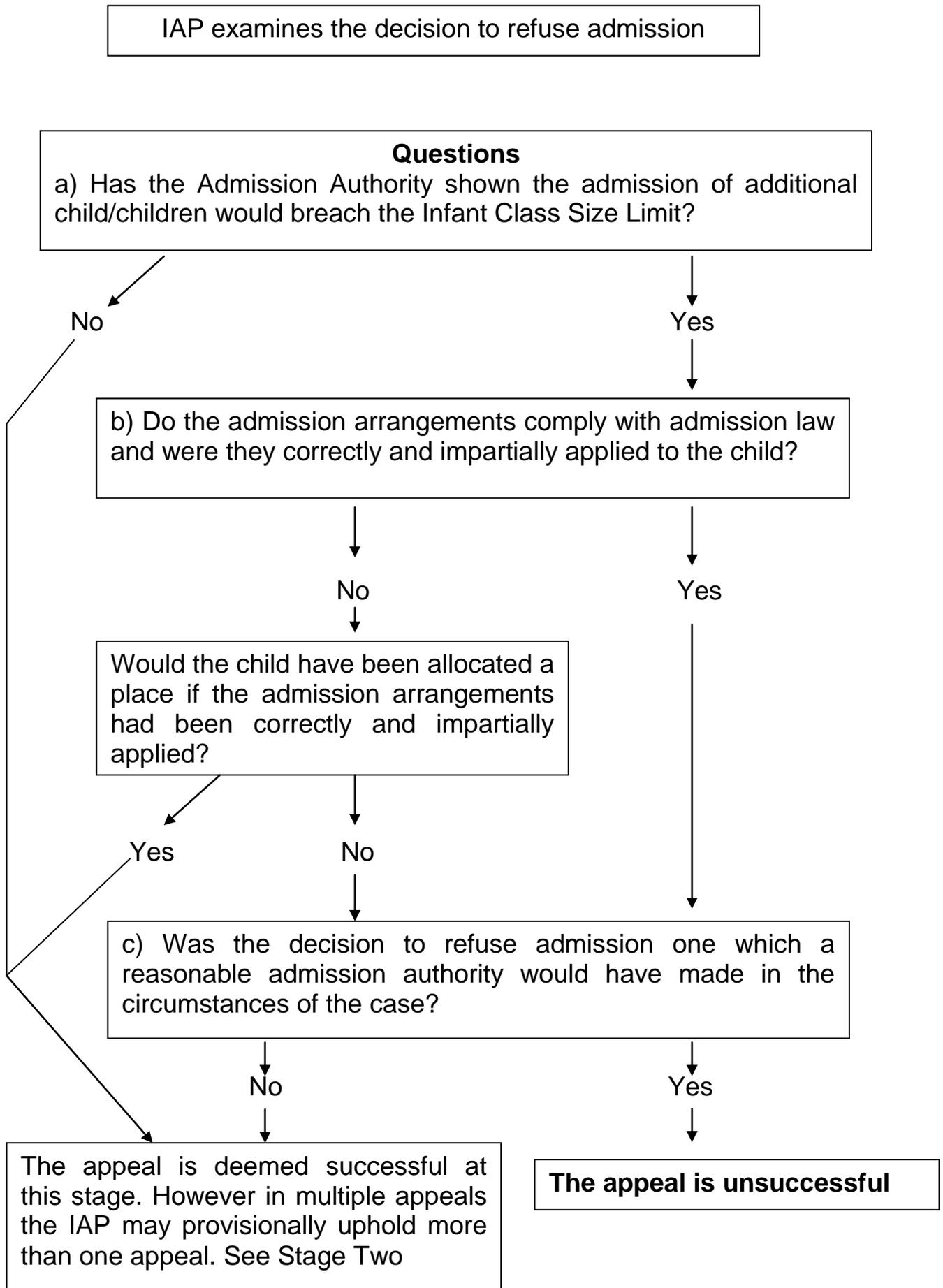
Although you have a legal right to appeal under Infant Class Size criteria, there are very limited circumstances in which an IAP can direct a child to be admitted to a school.

Think twice before refusing your allocated school – you may find that you have no school for your child to attend if your appeal is unsuccessful

Your chances of being successful at appeal are very small. Last year, only 5% of the Infant Class Size appeals we heard were successful.

Even if the Headteacher of the school you are appealing for is sympathetic to your case, the law states that the school cannot admit over their Admission Number

## Appendix 1: The Appeal Hearing



**STAGE TWO**  
**(for multiple appeals only)**

If the IAP find that a number of appeals should be upheld but to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel must proceed to a further stage and compare the appellants' cases.



**Question**

Having compared the cases, do the factors in the particular case nevertheless merit admission?



No



Yes

**The appeal is unsuccessful**

**The appeal is successful**

## Appendix 2 : Useful addresses

Enquiries about the contents of this book and the appeals process should be addressed to:

The Appeals Team  
Buckinghamshire Law Plus  
Room G51, New County Offices  
Buckinghamshire County Council  
Aylesbury  
HP20 1UA.

Tel: 01296 383384 / 383677  
E-mail: [appeals@buckscc.gov.uk](mailto:appeals@buckscc.gov.uk)

Enquiries about other aspects of admissions, and alternative school preferences should be addressed to the relevant Admission Authority:

a) For Milton Keynes Maintained Schools;

Milton Keynes Council  
Children and Families  
Saxon Court  
502 Avebury Boulevard  
Milton Keynes  
MK9 3HS

Tel: 01908 253338  
E-mail: [primaryadmissions@milton-keynes.gov.uk](mailto:primaryadmissions@milton-keynes.gov.uk)

b) For an Academy, Foundation or Voluntary-aided School:

The governing body of the relevant school

For complaints about appeals for Maintained, Foundation and Voluntary-Aided Schools:

The Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH  
Advice Team: 0300 0610614      Fax: 024 7682 0001  
Website: [www.lgo.org.uk](http://www.lgo.org.uk)

For complaints about Academy appeals:

Admission Appeal Complaints  
Academies Central Unit  
Education Funding Agency  
8<sup>th</sup> Floor, Earlsden Park  
Butts Road  
Coventry  
CV1 3BH  
Switchboard: 0370 000 2288  
Email: [academy.questions@ education.gsi.gov.uk](mailto:academy.questions@education.gsi.gov.uk)  
Website: [www.gov.uk](http://www.gov.uk)

.....  
Coram Children's Legal Centre  
Tel: 0845 345 4345  
Website: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)

.....  
The Equality and Human Rights  
Commission Disability Helpline (England)  
Freepost RRLL-GHUX-CTRX  
Arndale House  
Arndale Centre  
Manchester  
M4 3AQ  
Tel: 0845 604 6610  
Fax: 0845 604 6630  
Email: [englandhelpline@equalityhumanrights.com](mailto:englandhelpline@equalityhumanrights.com)  
Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

The current School Admission Appeals Code can be obtained from:

The Department for Education  
Castle View House  
East Lane  
Runcorn  
Cheshire  
WA7 2GJ  
Tel: 370 000 2288  
Fax: 01928 738248  
Website: [www.gov.uk](http://www.gov.uk)

