

# MOORDOWN ST. JOHN'S CHURCH OF ENGLAND PRIMARY SCHOOL



## APPEALS AGAINST ADMISSIONS DECISIONS FOR INFANT CLASSES WHERE THE CLASS SIZE IS LIMITED TO A MAXIMUM OF 30 BY GOVERNMENT LEGISLATION

### INTRODUCTION

1. The School Standards and Framework Act 1998 (the Act) gives parents/carers the right to express a preference for the school they wish their child to attend and to state the reasons for their preference. Local Authorities, and governors of Academies, Foundation, Foundation Trust, Trust, Voluntary Aided schools where they are responsible for school admissions, must comply with a parental preference for admission to a particular school unless doing so:
  - Prejudices the provision of efficient education or the efficient use of resources. A child may not be refused admission to a school for this reason if admissions have not reached the school's Admission Number;
  - Is incompatible with any admission arrangements agreed between the governors and the Local Authority
  - Will breach the Infant Class Size Limit (30 children per class). An Admission Authority is not required to admit a child to an infant class (Years R, 1 and 2) where to do so would conflict with the requirement to comply with the infant class size limit. An admission authority can refuse to admit a child to a school where to do so would require the school to take relevant measures, such as employing an extra teacher or building an extra classroom to enable the school to meet the statutory class size limit.

Only in very limited circumstances can admission over the limit be permitted. If a place has been refused due to the Infant Class Size limit having been reached, the law limits the grounds an Appeals Panel can uphold any appeal to only the following circumstances:

- (i) That the admission arrangements were either unlawful or incorrectly applied and if they had been lawful/applied correctly that you would have been offered a place, or
- (ii) That the decision to refuse was not one which a reasonable admission authority would have made in the circumstances of the case.

In relation to (i) above – it is important to understand that it is not enough to prove that there was a mistake in implementing the school's admission arrangements. In order to allow your appeal, the Appeal Panel must be satisfied that, if the arrangements had been carried out properly, that your child would have been admitted to the school.

In relation to (ii) above – it is important to understand what is meant by the legal term "reasonable". The decision must have been one that no other authority would have ever made – in other words it was totally irrational.

2. All schools must make arrangements for parents/carers to appeal if they are dissatisfied with an admission decision. The constitution and procedures of Appeal Panels are laid down in the Act which states that the decisions of Appeal Panels are binding on the school and the Local Authority.
3. Different provisions and appeal arrangements apply to admissions to special schools or to children who have a Statement of Special Needs. If you need information about these arrangements, please contact the Special Education Needs Inclusion Team at Bournemouth Borough Council on tel. (01202) 456166.
4. This information is concerned only with guidance relating to Infant Class Size appeals (for places in reception, Year 1 and Year 2) where there is legislation limiting class sizes to 30 children per class. Another set of guidance notes is available with information relating to appeals for all other year groups. Please contact the school if required.
5. You should read these notes in conjunction with the booklet 'Starting Primary School' or the booklet 'Moving up to Secondary School', which gives general information about admission arrangements in Bournemouth and provides information on the admission policies for schools in Bournemouth.

If you require copies of these booklets, they are available online at [www.bournemouth.gov.uk](http://www.bournemouth.gov.uk) under the schools section or on request from the Children's Information Service at the Town Hall Customer Services in Bournemouth **telephone: (01202) 456223**. Reference copies are also available to read at all Bournemouth public libraries.

## **HOW TO APPEAL AGAINST AN ADMISSIONS DECISION**

6. When a school has refused a place, you are told why the place was refused and then have the right to appeal that decision. If you wish to appeal, you should complete the appeal form provided and send it to the School Admissions Officer (School Admission Appeal) Moordown St John's CE Primary School, Vicarage Road, Bournemouth BH9 2SA. The appeal form gives you the chance to state the reasons why you wish to appeal against the decision of the Admissions Authority.

If you wish to provide any documents to support your case, copies should be attached to the appeal form before sending it to the school. If these documents are not available at the time, copies must be provided to the Clerk to the Panel well in advance of the appeal hearing. If they are not provided by the deadline given, they may not be accepted by the Appeal Panel or your appeal hearing may be deferred.

Copies of your appeal form and any other documents will be made available to the Appeal Panel members and to the Presenting Officer who will be presenting the case for the Admissions Authority at the appeal hearing.

7. Your appeal form and accompanying paperwork will be passed on to our independent appeals provider – the Democratic Services Team at Bournemouth Borough Council. They will arrange for your appeal to be considered by an Appeal Panel. The timescales for appeals to be heard are as follows:
  - For applications made in the normal admissions round appeals must be heard within 40 school days of the deadline for lodging appeals.

- For late applications appeals should be heard within 40 school days from the deadline for lodging appeals where possible or within 30 school days of the appeal being lodged.
- For applications for in-year admissions appeals must be heard within 30 school days of the appeal being lodged.

You will normally be given at least 10 school days notice of the date, time and place of the meeting of the Appeal Panel unless all parties agree to a shorter period of notice, e.g. when the beginning of the new school year is imminent.

The Clerk to the Appeal Panel can advise you on the arrangements for Appeal Panel hearings, including for example, facilities for disabled people.

8. At least a week before the hearing, the Clerk will send you and the Appeal Panel a statement from the Admissions Authority setting out their case. This will include:
  - how the admissions policy has been applied;
  - the reasons for the decision concerning your child;
  - copies of any information or documents which are to be made available at the appeal hearing.

9. You will be invited to attend the appeal hearing and make your case to the Appeal Panel if you wish. You are encouraged to attend wherever possible. You can be accompanied or represented by a friend or otherwise.

If you do not attend, your appeal will be heard in your absence on the basis of the available documentation as long as:

- you have given notice of your intention not to attend, but you allow the appeal to proceed without you or
- you do not attend and there are no reasonable grounds for adjourning the hearing to another date.

### **HOW APPEAL PANELS REACH A DECISION**

10. In considering an appeal, the Appeal Panel will take account of:

- Whether the admission of an additional child/additional children would breach the infant class size limit;
- 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;
- Whether the published admission arrangements were correctly and impartially applied in the case(s) in question; and
- Whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case.

An Admissions Authority is legally entitled to refuse admission to a school where to do so would conflict with the requirement to comply with the infant class size limit.

An Appeal Panel will therefore only be able to uphold an appeal if it concludes that the decision to refuse admission was not one which a reasonable admissions authority would make in the circumstances or, the child would have been offered a place if the admission arrangements had been properly implemented.

## **DECISIONS OF APPEAL PANELS**

11. The Clerk to the Appeal Panel will record the decision and will be responsible for telling you, the school and Bournemouth Local Authority the decision and the grounds on which it is made, in writing.
12. The decision of an Appeal Panel will be binding on the school and Bournemouth Local Authority. If the decision of an Appeal Panel is not to allow your appeal, the school may later consider your child for a place should a vacancy subsequently occur.
13. If you are dissatisfied with the decision of an Appeal Panel you cannot bring a further appeal based on the same facts. However, the Admission Authority may allow parents a further appeal if satisfied that there is:
  - a sibling link at the preferred school which was not there at the time of the original appeal;
  - a change of address which means the home address is significantly closer to the preferred school or is now in the designated local area of the preferred school;
  - new evidence supported by a letter from a hospital consultant, psychologist, social worker or health visitor, which could not have been introduced at the time of the original appeal hearing.

You should write to the School Admissions Officer, Moordown St John's Church of England Primary School, Vicarage Road, Bournemouth BH9 2SA with details if the above circumstances apply and a decision will then be taken as to whether grounds for a further appeal exist.

14. We hope that you feel the school has acted properly in relation to your appeal. If you do have any cause for complaint or concern, you may use the School's Complaints Procedure to address this. The School Admissions Officer can provide information. If you consider that you have suffered an injustice because of maladministration you can make a complaint to the Local Government Ombudsman (LGO) for maintained schools or the Education Funding Agency (EFA) for academies. Maladministration refers to the way in which something has been handled – e.g. unjustifiable delay, procedural error, incompetence, neglect or prejudice – and not to the actual merits of the decision. The Clerk to the Appeal Panel will provide details on how to make a complaint to the LGO/EFA when they send you the Panel's decision letter.

If you need any further information on admissions appeals, do not hesitate to contact either the Appeals Officer at Bournemouth Borough Council on tel. (01202) 451163 or the School Admissions Officer the School on tel.(01202) 527683.