



**Torbay  
Independent  
Appeals Panel**

# TIPS 2

## Primary and Secondary School Appeals



**Please keep this brochure until you have received and accepted an offer of a school place for your child.**

The information in this booklet is correct at the time of publication in February 2023.

**To request a copy of this document in another format or language please phone 01803 207087.**

# TIPS2

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## Section 1 - General Information on all Appeals

### 1. Introduction

If you have been refused a place at your preferred school you can appeal against this decision to the Torbay Independent Appeals Panel. This guide will:

- ◆ explain how the appeals process works;
- ◆ help you appeal against the decision not to offer your child a place at your preferred school; and
- ◆ what factors the Panel can take into account when determining appeals.

### 2. Background information

The relevant admission authority allocates places at schools. Depending on the type of school you are appealing for, the admission authority is either the Local Authority (referred to as 'Children's Services' in this guide), the school's Governing Body or the Academy Trust.

The admission authority decides what criteria will be used to allocate school places in the event that a school receives more applications than there are places available, which is known as an "Admissions Policy". The admission authority will use this criteria when deciding whether a child will be offered a place.

If an admission authority has turned down your application in writing you have the right of appeal to an Independent Panel. The Department for Education has issued a School Admission Appeals Code and School Admissions Code which must be followed by Independent Panels.

### 3. Which schools does the Panel hear appeals for?

The Panel hears appeals for most schools in Torbay.

### 4. How do I make an appeal?

Please complete the appeal form on the Council's Website ([www.torbay.gov.uk/schools-and-learning/admissions/admissions-appeals/](http://www.torbay.gov.uk/schools-and-learning/admissions/admissions-appeals/)) and submit with any supporting information to:

If you wish to submit your appeal via in hard copy together with supporting information please send it to:

Torbay Independent Appeals Panel  
c/o Governance Support  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

Alternatively you can email your appeal form and supporting evidence to [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk). Please ensure all supporting information clearly indicates the child's name. A letter of acknowledgement will be sent within five working days upon receipt of your appeal form.

## **5. When do I need to appeal by?**

There is a specific closing date to submit your appeal form if your child is due to start secondary or primary school in September/January and you have not been offered a place at your preferred school. These dates are available on our website at <https://www.torbay.gov.uk/schools-and-learning/admissions/admissions-appeals/> or by phoning the Clerk on (01803) 207087.

## **6. What happens to my appeal form when I have sent it?**

The letter acknowledging receipt of your appeal gives an indication which month your appeal is likely to be heard. At least 10 school days before the appeal hearing you will be sent a letter advising you of the date and time of your appeal.

The letter will also include the following information:

- ◆ details of how the appeal hearing will be carried out;
- ◆ the rules the Panel must follow when determining appeals;
- ◆ the names of the Panel Members; and
- ◆ a date that any additional information should be submitted by if you haven't done so already.

Approximately seven working days before the appeal hearing the items listed below will be sent to you, the Panel and the admission authority:

- ◆ letter from the Clerk reconfirming the date and time of your appeal;
- ◆ a statement prepared by the admission authority;
- ◆ a copy of your appeal form; and
- ◆ copies of any additional information you have submitted.

## **7. How can I prepare for my appeal?**

Before the appeal hearing it is advised that you:

- ◆ read through this booklet;
- ◆ read through the papers sent to you by the Clerk;
- ◆ familiarise yourself with the School Admission Appeals Code which can be found at <https://www.gov.uk/government/publications/school-admissions-appeals-code>
- ◆ make a note of any questions you wish to ask the admission authority;
- ◆ inform the Clerk if anybody will be coming with you to the appeal hearing;
- ◆ advise the Clerk if you know any of the Panel Members;
- ◆ telephone the Clerk if you have questions about the appeals process; and
- ◆ telephone the Clerk if you are unable to attend the appeal.

## **8. What information can I provide to help my case?**

The Panel base their decision on the information supplied in writing and what is said during the appeal hearing. The Panel, you and the admission authority receive the same written evidence pack prior to the appeal. It is therefore important to provide relevant information in support of your case.

Please note that any information not submitted by the deadline might not be considered at the appeal. The Panel must decide whether or not to consider late information and will take into account its significance and whether the hearing should be adjourned to a later date.

Please be assured that all the information provided is treated in confidence and only shared with the Panel, the admission authority, the Clerk and the Panel's Legal Advisor.

## **9. Who will hear and consider my appeal?**

The Torbay Independent Appeals Panel is made up of volunteers who are independent from Torbay Council and the schools who they hear appeals for. The Governance Support Team provides administration support to the Panel and acts as the Clerk at the appeal hearing.

The Panel will be made up of three people and are either 'lay' or 'experienced in education'. A 'lay' Panel Member is someone who has no experience in the education system other than having children attend school in the past. An 'experienced in education' Panel Member would be someone who is a current or past teacher/governor or a parent with a child currently at school. All Panel Members receive training in relation to school appeals.

## **10. What powers does the Panel have?**

The Panel can either turn down or allow your appeal.

## **11. Who will be present at the appeal hearing?**

- ◆ you and anybody you wish to join you such as a partner, friend or representative;
- ◆ three Panel Members;
- ◆ the Clerk to the Panel and/or Legal Advisor;
- ◆ the host (as the hearings are being held remotely using Zoom); and
- ◆ a representative from the admission authority.

## **12. What is the role of the Clerk?**

The Clerk is not a member of the Panel. The Clerk will support the Panel to ensure all the relevant facts are established and that the hearing is carried out in line with the School Admission Appeals Code/ School Admissions Code and any other relevant legislation in place at the time. The Clerk will:

- ◆ provide independent advice to all parties;
- ◆ make notes during the hearing to help the Panel when they make their decision;

- ◆ be present when the Panel makes their decision; and
- ◆ inform you and the admission authority of the Panel's decision in writing.

Occasionally a legal representative will assist the Clerk by providing independent advice to the Panel.

### **13. What is the role of the admission authority representative?**

A representative from the admission authority will be present at the hearing to explain why a place has not been offered to your child. The representative will also answer any questions you or the Panel may have.

### **14. Can I have someone support me at the hearing?**

Yes, you can have a family member, a friend or a professional who is involved with your family e.g. social worker.

It is for you to decide if you wish to bring a solicitor or lawyer with you to the appeal hearing. You will be responsible for the cost of such a representative and please notify the Clerk if you intend to bring a legal representative to the hearing.

### **15. Can I bring my child with me to the appeal hearing?**

Sometimes the appeal can be stressful for some children and unless there are exceptional circumstances children should not be encouraged to be present.

### **16. How will the appeal be held if it's on Zoom?**

The Independent Appeals Panel have very robust practices in place to ensure only those entitled to be present at the hearing can access the Zoom call. Prior to the hearing you will be asked to provide the email address you will be using on the day of the hearing and if anyone will accompany you. If your support companion will be at a separate location to you, and using a different device, you will need to provide their name and email address in advance to Governance Support.

### **Joining a meeting**

Click on the link provided to you via email and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided in advance and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

When you join the Zoom meeting you will enter a virtual 'waiting room'. Stage 1 (if applicable) will be held with all the parents/guardians as this part does not look at your personal circumstances. The Panel and you will hear from the school about their admission arrangements, teaching space and other relevant matters. If the appeal proceeds to stage 2, the Panel will admit you to the hearing at your allocated time (or as close to) and the meeting will then be locked to ensure no-one else can access the meeting.



## 17. What happens at the appeal hearing?

The Panel try to keep the appeal hearings as informal as possible but they must follow a set procedure and rules for different types of appeals (e.g. infant class size, grammar school appeals), which is set out in the School Admission Appeals Code, School Admissions Code and any other relevant legislation in place at the time. On the day of the appeal:

- ◆ once admitted the Chairperson will welcome you and ask everyone to introduce themselves and explain their role. The Clerk will confirm that you understand the process to be followed.
- ◆ The case for the admission authority will be presented. You and the Panel will have the opportunity to ask questions at the hearing.
- ◆ The Panel will then adjourn to determine:
  - (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 the case in question; and
  - c) whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources.
- ◆ If there is more than one child appealing for a place in the same year group at the same school, the case for the admission authority will be held with all parents present. You will then have the opportunity to present the reasons for your appeal in an individual appointment with the Panel. The Panel will hear all the appeals for the same school before making any decisions on individual cases.

**Note:** At no time will either you or the admission authority representative be left alone with the Panel on Zoom

## 18. Are there different types of appeals?

Yes, there are three different types of appeal depending on the age of your child.

- ◆ Selective school appeal – entry into a grammar school in Torbay.
- ◆ Infant Class Size – entry into reception, year 1 or 2 where the number of children is limited to 30 pupils in a single class (including mixed year group classes).
- ◆ Non-infant class size – entry into reception to year 11 where classes are not limited to 30 pupils.

To find out what type of appeal applies to your child please contact Student Services on 01803 208908. Please ensure you have completed the correct appeal form for your child.

**19. What happens if I do not attend the appeal hearing?**

If you are unable to attend the appeal hearing please tell the Clerk as soon as possible. If it is not possible to offer an alternative appointment your appeal will be considered and decided on the written information you and the admission authority have submitted.

If you do not tell the Clerk that you are unable to attend, and you do not arrive for your appeal, your appeal will be considered and decided on the written information you have submitted.

**20. When and how do I find out if my appeal was successful or not?**

You may telephone the Governance Support Team after the appeal for the result. You will be asked your child's name, the school you are appealing for and be given a 'yes' or 'no' answer. No details of the appeal hearing will be discussed on the phone.

A letter notifying you of the Panel's decision will be sent to you within five school days of the appeal wherever possible.

**21. My appeal was successful, what next?**

The decision of the Panel is binding on the admission authority. To make arrangements for your child to start school you should contact the school directly.

**22. My appeal was not successful, what next?**

If your appeal is unsuccessful you should contact Student Services to discuss any alternative options for your child's education.

**23. If my appeal is unsuccessful can I make a further appeal?**

You do not have the right to a second appeal for the same school and same academic year unless the admission authority has accepted a second application from you and you have been refused a place.

**24. What can I do if I am not happy with the way my appeal was conducted?**

Maintained Schools

The Local Government Ombudsman can investigate complaints about the way in which the Appeal Panel conducted your appeal. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. However the Ombudsman **cannot** question whether an Appeals Panel decision was right or wrong simply because you disagree with the decision. You can complain about the way the appeal was carried out, but you cannot complain about the decision itself. If you wish to complain about how your appeal was conducted, please

contact the Ombudsman on 0300 061 0614, visit the website [www.lgo.org.uk](http://www.lgo.org.uk), or write to Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH.

## Academy Schools

You can complain to the Education and Skills Funding Agency (ESFA) in respect of the appeals panel. The ESFA can only investigate complaints about Panels that did not follow the procedure set out in the School Admissions Appeals Code. The ESFA is unable to consider an appeal complaint if the appeal was held more than 6 months ago unless there is a good reason for the complaint being delayed. The ESFA cannot overturn the panel's decision. A panel is independent, and decisions can only be challenged in court through a judicial review. A complaint can be submitted in writing by sending it to Complaints Team, Education and Skills Funding Agency, Cheylesmore House, Quinton Road, Coventry, CV1 2WT. Visit their website <https://www.gov.uk/government/organisations/education-and-skills-funding-agency/about/complaints-procedure> for further information.

### **25. Where can I get further information on preparing for my appeal?**

You can contact the Clerk to the Panel by telephone 01803 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

The Department for Education website [www.education.gov.uk](http://www.education.gov.uk) offers advice to parents on a wide range of school-related issues and has links to both the Admissions and Appeals Codes of Practice.

Alternatively, the Advisory Centre for Education, an independent centre for parents, can also provide you with information by phone on 0300 0115 142 or visit the website at [www.ace-ed.org.uk](http://www.ace-ed.org.uk).

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## **Section 2 - Information on Appealing for a Place in Reception and Year's 1 and 2**

### **26. What is an infant class?**

The School Standards and Framework Act 1998 limit the number of children in a single reception, year 1 and year 2 class to a maximum of 30 pupils per school teacher (Classroom Assistants, dedicated support workers etc are not classed as school teachers) – this is known as infant class size limit.

### **27. Can infant classes have more or less than 30 pupils?**

Some schools admit more than 30 children into their reception year e.g. 45 which when divided would create classes of less than 30. Therefore the infant class size limit is not reached in the academic year you're applying for. However, infant class size limit still applies if the admission authority can demonstrate that by admitting an additional pupil into the reception year you are applying for, the infant class size limit would be reached in future years. This may be due to the school combining different year groups to form a class of 30 in

future years e.g. when your child moves into year 1. Please contact the admission authority to find out if your appeal falls under the infant class size regulations.

## **28. What factors does the Panel have to consider to allow an appeal?**

To allow an appeal the Panel must determine:

- 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. (For a definition of 'reasonable' please refer to The School Admission Appeals Code).

If you can demonstrate the above have not been complied with, and the Panel are satisfied you have sufficiently demonstrated non-compliance with the above, your appeal could be allowed.

If a number of children would have been offered a place under (a) to (d) above, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the Panel **must** then compare cases.

## **29. How does the Panel compare cases?**

The Panel compares each appellant's case and decides which of them, if any, to uphold. Where the school can admit more children without breaching infant class size limit the Panel must uphold the appeals of at least that number of children.

## **30. Consideration of 'reasonable'**

The Panel have to determine if the decision to refuse admission to your preferred school is one which a reasonable admission authority would have made in the circumstances of the case. The use of 'reasonable' is not the usual meaning in this situation. It is the legal meaning and has a much higher threshold i.e. a decision which is so outrageous in its defiance of logic or of accepted moral standards.

It is unlikely the Panel will consider the following as being unreasonable:

- having to transport siblings to different schools at the same time;
- having to walk your child to school along busy roads, despite being offered a place at an alternative school within the statutory walking distance from your home address;
- attending a different school to the friends your child made at nursery; and

- due to your work commitments your preferred school is closer to other family members' homes (e.g. grandparents) and you are relying upon them to transport your child to and from school.

However, the Panel may consider the following circumstances as being reasonable and uphold the appeal:

- you submitted your application form and baptism certificate by the deadline to the correct admission authority. You have not been offered a place at your preferred school as you believe the admission authority did not have regard to the baptism certificate as it was in another language.
- Soon after the closing date for applications you notified the admission authority that you had not submitted your application on time because of the bereavement of a close family member, to which you submitted the appropriate evidence (e.g. death certificate). You have not been offered a place at your preferred school and you are of the opinion the admission authority did not have regard to your exceptional circumstances.

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### **Section 3 - Information on Appealing for a place in Year's 3-11 and non-infant class size**

This section applies to you if you are appealing for a place in:

- reception, year 1 or year 2 and infant class size regulations do not apply; and
- year's 3 to 11.

#### **31. What factors does the Panel have to consider to allow an appeal?**

To allow an appeal the Panel must determine:

- 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.

If you can demonstrate the above have not been complied with, and the Panel are satisfied you have sufficiently proven non-compliance with the above, your appeal could be allowed.

If you have been unable to demonstrate the above the Panel must then decide whether:

- c) the admission of additional children would prejudice the provision of efficient education or the efficient use of resources.

The Panel must balance the reasons given by the admission authority for not offering a place against the reasons for you expressing a preference for the school, including what that school can offer your child that the allocated school or other schools cannot. If the Panel considers your case outweighs the prejudice to the school it must uphold the appeal.

If a number of children would have been offered a place under (a) to (c) above, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the Panel **must** then compare cases.

### **32. How does the Panel compare cases?**

The Panel hears each appellant's reasons for appeal and compares the cases and will uphold those with the strongest case for admission. Where a certain number of children could be admitted without causing additional prejudice, the Panel must uphold the appeals of at least that number of children.

### **33. Consideration of 'prejudice'**

The Panel must not reassess the capacity of the school but must consider the impact on the school of admitting more children. In reaching a decision as to whether or not there would be prejudice the Panel may consider the following factors:

- a) what effect an additional pupil would have on the school in the current and following academic years as the year group moves through the school;
- b) whether any changes have been made to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
- c) the impact of the locally agreed Fair Access Protocol; and
- d) the impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.

## **Section 4 - Additional Information on Appealing for a Place in a Selective School or Grammar School**

Designated grammar schools are permitted to select students for admission based upon academic ability and may leave places unfilled if there are insufficient eligible applicants.

The scores attained by your child in their 11+ exams will determine if they meet the required academic standard for a place at a selective school. If your child was not offered a place you are able to appeal this decision.

### 34. What factors does the Panel have to consider to allow an appeal?

To allow an appeal the Panel must determine:

- i) Whether a local review process\* was applied to your child's 11+ results;
- ii) Where a local review process (not all selective schools undertake this process, please contact the relevant school to determine this) has not been applied the Panel must only uphold your appeal if it is satisfied:
  - That there is evidence to demonstrate that your child is of the required academic standard, for example Year 5/Year 6 SAT results or a letter of support from their current or previous school clearly indicating why the child is considered to be of selective school ability; **and**
  - Where the reasons for your child to attend your preferred school outweigh the admission authority's case that admission of your child would cause prejudice.
- iii) where a local review process has been applied the Panel must only uphold your appeal if it is satisfied that the local review process was:
  - carried out in a fair, consistent and objective way; and
  - if there is no evidence that this has been done, that there is evidence to demonstrate that your child is of the required academic standard, for example Year 5/Year 6 SAT results or a letter of support from their current or previous school clearly indicating why the child is considered to be of selective school ability; **and**
  - Where the reasons for your child to attend your preferred school outweigh the admission authority's case that admission of your child would cause prejudice.
- iv) in either case the Panel must not devise its own methods to assess your child's academic ability, they can only consider the evidence provided.

### 35. Consideration of 'prejudice'

The Panel must not reassess the capacity of the school but must consider the impact on the school of admitting more children. In reaching a decision as to whether or not there would be prejudice the Panel may consider the following factors:

- a) what effect an additional pupil would have on the school in the current and following academic years as the year group moves through the school;

- b) whether any changes have been made to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
- c) the impact of the locally agreed Fair Access Protocol; and
- d) the impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.

\*Locally the local review process is sometimes referred to as the Border Zone Panel.

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## Data Protection

Information collected and processed by Torbay Council on behalf of the Torbay Independent Appeals Panel complies and is stored in accordance with the UK General Data Protection Regulation (GDPR) UK Data Protection Act 2018.

The information you provide on your form will be used to process your appeal for a school place.

Torbay Council does not rent, lease or sell your personal information to third parties. The only parties that this information may be disclosed to are admission services, the relevant admission authority, and Torbay Council's Legal Department. We may also need to disclose information if required to by law.

For further information please visit [www.torbay.gov.uk](http://www.torbay.gov.uk) or contact Information Governance [at infocompliance@torbay.gov.uk](mailto:infocompliance@torbay.gov.uk). By submitting the appeal form (including by email/hard copy) you acknowledge that you have read, understand and agree to this data processing.

For further information please contact the Clerk to the Torbay Independent Appeals Panel at Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR, email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk), telephone (01803) 207087.