

# **OXLEY PARK ACADEMY INFANT CLASS SIZE APPEALS**

Relevant to Reception, Year 1 and Year 2 Only

## **Guidance for parents – 2016**



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## **INTRODUCTION**

This appeal booklet provides information for a statutory appeal against the refusal of the Admission Authority to allocate your preferred school, Oxley Park Academy (the “school”).

References to the Admission Authority in this booklet mean the Board of Academy Directors.

The School Standards and Framework Act 1998 (“SSFA”) and the School Admission Appeals Code produced by the Department of Education govern all school admission appeals.

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 limited to just three grounds that the IAP can consider and therefore the percentage success rate is minimal.***

The appeals for the school are organised independently by the Appeals Team at Buckinghamshire County Council and you must return your appeal form to them at the address below.

This booklet explains how the Admission Appeal procedure works and the steps that the Appeals Team 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. Contact details are as follows:

The Appeals Team  
Buckinghamshire County Council  
County Offices  
Aylesbury  
Buckinghamshire  
HP20 1UA  
Telephone: 01296 383384 Fax: 01296 382421  
E-mail: [appeals@buckscc.gov.uk](mailto:appeals@buckscc.gov.uk)

## **1. WHEN CAN I MAKE AN APPEAL FOR A SCHOOL PLACE?**

You have the right to appeal when the school you prefer, and have listed as one of your preferences, has been refused by the Admission Authority. **When you have been refused the school place you will be able to request an appeal.**

### **MAIN ALLOCATIONS FOR SEPTEMBER 2016 & IN-YEAR APPLICATIONS**

#### **Infant Class Appeals for 2016/2017- (Reception, Year 1 & Year 2 only)**

- Your child has been refused a place in any of the schools you named on your original application form during the main allocation process for September 2016 admission into Reception, Year 1 or Year 2.

**YOU CANNOT APPEAL FOR A PLACE AT A SCHOOL WHICH IS NOT NAMED ON YOUR LIST OF PREFERRED SCHOOLS ON YOUR APPLICATION FORM.**

## **2. HOW CAN I LODGE AN APPEAL?**

Once you have been refused a place at the School, please contact **admissions at the school on 01908 503870 or [office@oxleyparkacademy.com](mailto:office@oxleyparkacademy.com)** and they will send out an appeals form for you to fill in.

The 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 the application for your preferred school was unsuccessful.

**Please send your appeal form to The Appeals Team, Buckinghamshire County Council, County Hall, Walton Street, Aylesbury, Buckinghamshire, HP20 1UA.**

#### **IMPORTANT – DON'T MISS THE DEADLINE!**

If your appeal form is not submitted by this deadline date then the Appeals department cannot guarantee that your appeal will be heard in the first round of appeal hearings for that school. If the appeal form is returned late, it is quite possible that there will not be an appeal appointment available for the school until much later in the year.

**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.**

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

Due to the large number of appeal forms received, the Appeals Team is not able to confirm receipt of the form or evidence over the telephone or collect forms in person from Reception at Buckinghamshire County Council’s offices. However, the staff on Reception will be pleased to provide a receipt for any documentation left with them.

### **3. WHAT EVIDENCE DO I NEED TO PROVIDE FOR THE APPEAL?**

**As the grounds for upholding an Infant Class Size appeal are severely limited, please think very carefully before submitting an appeal of this type.**

**The IAP can ONLY consider the appeal under one of the grounds below and nothing else. If your case does not fit into one of these grounds then the IAP will be unable to consider your case as their powers are severely restricted by infant class size legislation.**

**Unlike other appeals, the IAP CANNOT consider the prejudice to your child – they can only consider the case if it falls within either grounds A, B or C.**

<b>GROUND A</b>
The admission of additional children would not breach the infant class size limit of 30.
<b>GROUND B</b>
The admission arrangements did not comply with the admissions law or were not correctly and impartially applied <b>and your child would have been offered a place</b> if the admission arrangements had complied or had been correctly and impartially applied.
<b>GROUND C</b>
The decision to refuse admission was not one which a reasonable Admission Authority would have made in the circumstances of the case.  In other words, the Admission Authority has made an “unreasonable” decision. However, please be aware that the courts have defined an unreasonable decision as being one which is “perverse in the light of the admission arrangements” and <b>NOT</b> “perverse in the light of the personal circumstances”. The word perverse has a stronger meaning in its legal sense, it means beyond the range of responses open to a reasonable decision maker. For example, 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. Another example would be that the admission authority were unable to allocate your child to one of your school preferences but had offered you a place at the nearest school to your home with available places – this would be considered reasonable in its legal sense.

You should carefully consider the reasons why you want your child to attend a particular school. Please remember that when you come to appeal you are appealing for a school and not against another. You cannot submit any evidence after your appeal hearing has taken place so please make sure that you include all relevant evidence for your case.

#### **IMPORTANT - EVIDENCE**

It is the parent's responsibility to provide **ALL** the evidence for the child's case. The IAP does not have the power to contact schools or third party persons/agencies etc. to discuss matters relating to the appeal for your child.

It is **NOT** permissible for a representative of the school you are appealing for to accompany you to the hearing **OR** provide letters of support.

#### **4. WHERE DO I SEND MY FORM AND EVIDENCE?**

The appeal form and evidence must be posted to The Appeals Team, Buckinghamshire County Council, County Hall, Walton Street, Aylesbury, HP20 1UA. You can also email the 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. Please note the deadline date for sending the appeal form explained in Section 2.

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)
- You do not fasten your documents by staples or treasury tags
- You do not place your documents in plastic or document wallets or binder/lever arch files
- You do not separate your documents by file dividers or by any other means
- You not highlight any part of the document – when a document is photocopied, highlighted areas become unreadable.

The Appeals Team does 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 the Appeals Team in a large format envelope. Insufficient postage could result in a time delay for the appeal or even result in the form 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.

## **5. I HAVE SUBMITTED MY FORM AND EVIDENCE – WHAT HAPPENS NOW?**

The Appeals Team aims to acknowledge receipt of the form within 7 working days. If you have not received an acknowledgement letter by this time, **please contact the Appeals Team.**

The acknowledgement letter will provide a **five-digit reference number**, which you must quote every time you contact the Team. If you have any further supporting evidence you wish to send, please clearly write your reference number on this.

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. It will also inform you that any information or evidence not submitted by the deadline might not be considered by the IAP at the appeal.

The Appeals Team 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.

Before the appeal, the Appeals Team will send to you a copy of the Admission Authority's case, (including their reasons for refusing the application), a copy of your own appeal form and supporting evidence, an Order of Business and a map of the venue. The Appeals Team aims to send this out 7 working days prior to the appeal, and all parties (i.e. you, the IAP, the clerk and the Admission Authority) receive exactly the same information.

### **IMPORTANT – RECEIPT OF FULL CASE**

If you have not received your case papers within five days of your appeal date, please contact the Appeals Team on 01296 383384.

On receipt of your case papers, please ensure that all the evidence you submitted for your appeal has been included. If you have any queries, please call the Appeals Team immediately.

The Appeals Team will also notify you of the names of the clerk and the three IAP members that will hear the appeal. Please note that IAP members and clerks may be subject to last minute change.

The IAP members will read the case papers in advance of the hearing. No decisions are made until after the appeal hearing.

## **6. MY CHILD HAS A DISABILITY; WILL THIS AFFECT MY APPEAL?**

If your child has a disability you may wish to discuss your appeal with their 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 that 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.

## **7. WHEN AND WHERE WILL THE APPEAL HEARING TAKE PLACE?**

Appeals can take place at any time throughout the year as families move into the area and often find their preferred school full. Appeals do not normally take place during school holiday dates.

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

## **8. SHOULD I ATTEND 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 do this, that person must have signed authorisation from you that they have permission to represent you at the hearing. A copy of the signed authorisation should be given to the clerk immediately before the appeal or sent to the Appeals Team in advance.

### **IMPORTANT – WITHDRAWING FROM APPEAL**

**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 the Appeals Team know in advance so the clerk does not telephone you on the day of your appeal and the IAP are not kept waiting for you to arrive.

## **9. I AM ATTENDING THE HEARING - WHAT IF I HAVE A SPECIAL NEED OR A DISABILITY?**

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).

## **10. ENGLISH IS NOT MY FIRST LANGUAGE – I NEED AN INTERPRETER.**

If you need an interpreter, please let the Appeals Team know in good time so that one can be arranged. Alternatively if you would prefer, you may arrange your own interpreter. You may also ask a friend or advisor to speak on your behalf.

## **11. HOW LONG WILL THE APPEAL HEARING LAST?**

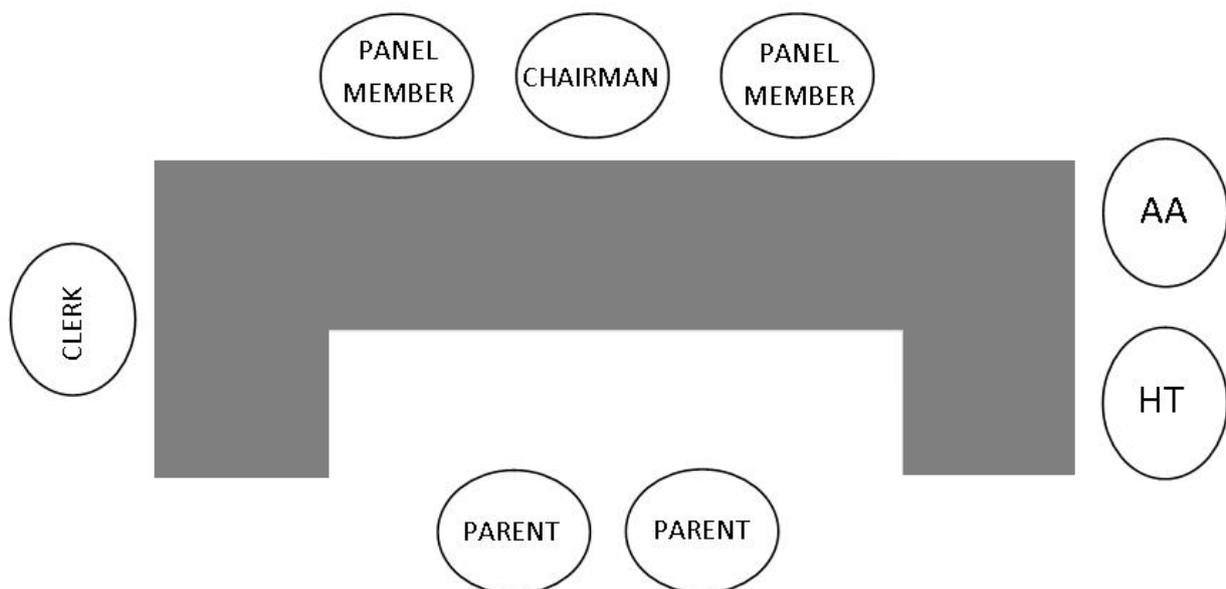
An appeal should last on average between twenty and thirty minutes and the hearings are scheduled accordingly. Therefore, when planning what you wish to say at your appeal hearing, please keep in mind your allocated time and please consider that there are other parents waiting to be heard after your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

### **IMPORTANT – APPEAL TIMINGS**

Delays are sometimes unavoidable and you should be aware that your appeal may start later than the scheduled time.

## **12. THE APPEAL HEARING**

On arrival at the appeal venue, please report to Reception. The clerk will collect you when it is time for your appeal. When you arrive at the hearing venue, the layout in the room will be as below:



AA – Admission Authority Representative  
HT – Headteacher or School Representative

The hearing procedure will follow the Order of Business which you receive with your case papers.

The IAP will firstly hear the Admission Authority's case and then your case for 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, as in the case of “Multiple Appeals” or individual (see below).

### **(i) The Admission Authority’s Case**

#### **Multiple Appeals – where there is more than one person appealing for the school**

If you are one of a number of parents appealing for the preferred school, the case for the Admission Authority will be heard in the presence of yourself and all the parents that are appealing for the school, as well as the IAP, the clerk and the Admissions Authority representative and/or school representative. This is known as the ‘Grouped’ or Stage One hearing.

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.

The IAP and you and the other parents appealing for the preferred school 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 for the parties to raise points about individual circumstances or personal grounds for appeal.

The IAP then has to consider a number of points including whether:

- The school’s published admission arrangements comply with the mandatory requirements of the School Admissions Code and the Schools Standards & Framework Act 1998
- The school’s published arrangements were correctly and impartially applied
- To admit an additional child would breach the infant class size limit.

#### **Individual Appeal – where you are the only person appealing for the school**

If you are the only parent appealing for the school, there will just be yourself, the IAP, the clerk and the Admission Authority and/or school representative in the room.

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.

The IAP and you will be given the opportunity to ask the Admission Authority questions about its case.

The IAP then has to consider a number of points including whether:

- The school’s published admission arrangements comply with the mandatory requirements of the School Admissions Code and the Schools Standards & Framework Act 1998
- The school’s published arrangements were correctly and impartially applied
- To admit an additional child would breach the infant class size limit.

### IMPORTANT – Admission Authority Case

At this stage of the appeal you can raise any issues or questions you have regarding the school's case.

#### (ii) Your Case for Appeal

Once the case has been put by the Admission Authority, you will be invited to present your case for appeal.

For **Multiple Appeals**, this will be at the time and date you have been given for the Stage Two part of your appeal. Please note that Stage One (the "Grouped" hearing of the Admission authority's case) and Stage Two (the hearing of your case for appeal) may be held on different dates.

For **Individual Appeals**, your case for appeal will follow on immediately after the case for the Admission Authority.

This is your opportunity to explain why you are appealing, bearing in mind that the IAP can **only** consider the three grounds for appeal set out at section 3.

<b>If you are appealing under Ground A</b>	You must show the basis for your claim that the infant class size limit would not be breached.
<b>If you are appealing under Ground B</b>	You must show that the admission arrangements did not comply with the admissions law or were not correctly and impartially applied <b>and your child would have been offered a place</b> if the admission arrangements had complied or had been correctly and impartially applied.
<b>If you are appealing under Ground C</b>	You must show that the Admission Authority has made an "unreasonable" decision. As stated above, this is not the usual meaning of "reasonable" because, in this situation, the legal meaning applies. 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.

### IMPORTANT – UNREASONABLENESS

**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.**

Once you have presented your case and no one has any further questions, you will then be given the opportunity to sum up and the appeal will conclude.

The Chairman will ask everyone if they have had time to say everything they wish to say. Please do make sure, at this stage, that you have mentioned all of 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 IAP will reach a decision on your appeal in accordance with the procedure set out in the School Admission Appeals Code (2012) which you are advised to read prior to attending your appeal. A copy of the School Admission Appeals Code can be found at [www.gov.uk](http://www.gov.uk)

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

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

**Please see the flowcharts on the IAP's decisions on Page 14 and 15**

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

The Appeals department will notify you by post of the decision made by the IAP within 5 school days of the appeal hearing.

If there have been several appeals for the preferred school, (Multiple Appeals), the IAP members are not able to make a final decision until all of the appeals for that school have been heard. It is at this point that parents will be notified of the decision for their child. This could be several weeks later.

#### **IMPORTANT – DECISION NOTIFICATION**

The Appeals Team can **ONLY** notify you of the decision by letter. They will not be able to give decisions over the telephone or via email.

### **14. WHAT HAPPENS IF THE APPEAL IS UNSUCCESSFUL**

The decision of the IAP is legally binding on all parties, that being the parents, school and Admission Authority. 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 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 EFA can be found on page 16.

### **15. WHO IS THE EDUCATION FUNDING AGENCY ("EFA")?**

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 IAPs for admissions to Academies. The EFA cannot review or overturn the decisions of IAPs. 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 EFA, even though the parent may still be dissatisfied.

# REMEMBER.....

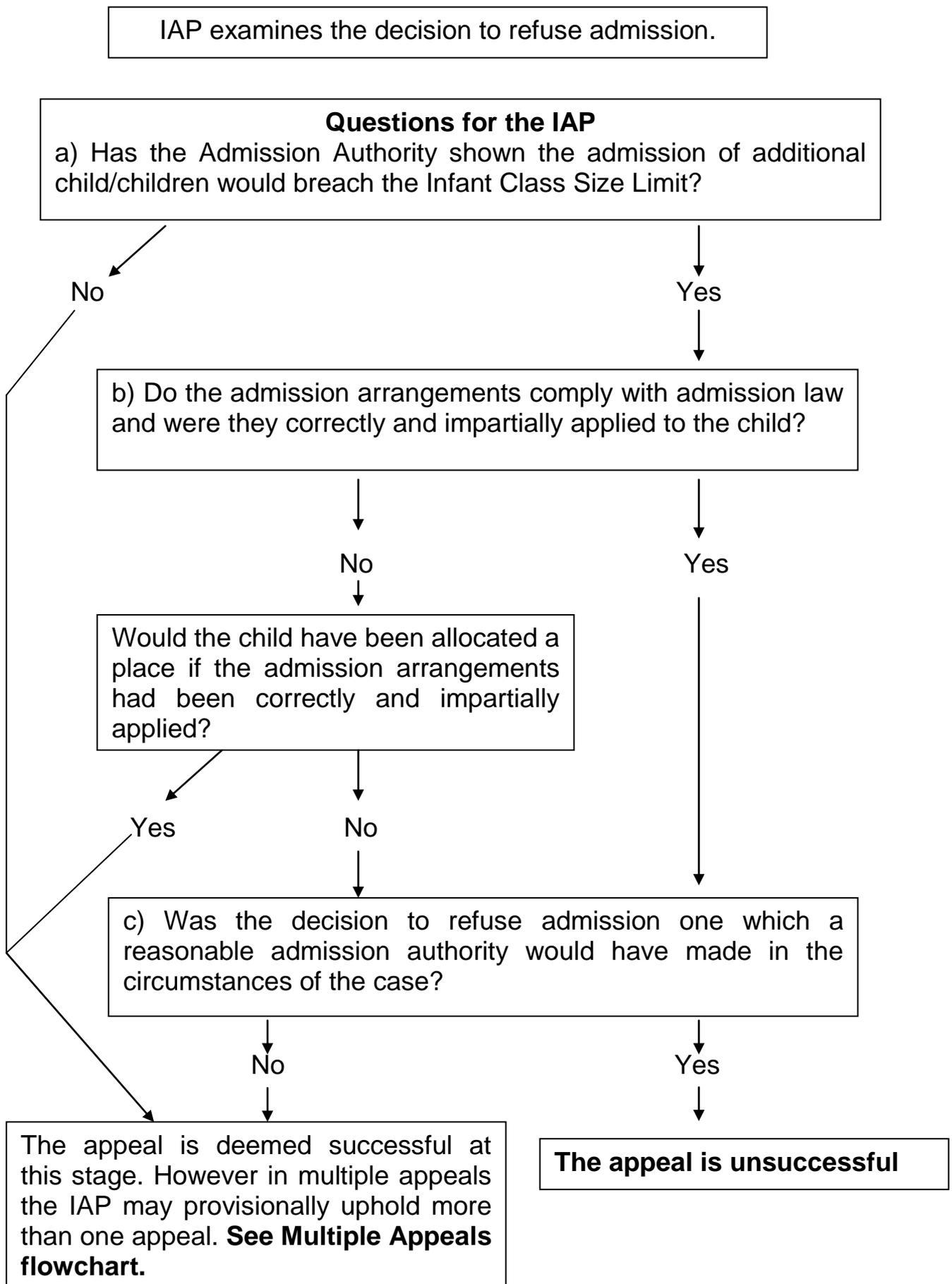
Although you have a legal right to appeal under Infant Class Size criteria, there are very limited circumstances in which an IAP can direct a child to be admitted to a school.

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. Only 2% of Infant Class Size appeals were successful last year.

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.

## Flowchart: The IAP's Decisions



## **Flowchart: IAP's Decisions for Multiple Appeals ONLY**

If the IAP finds 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.**

## **16. USEFUL ADDRESSES**

Enquiries about the contents of this book and the appeals process should be addressed to:	
The Appeals Team Buckinghamshire County Council County Hall Walton Street Aylesbury HP20 1UA.	Tel: 01296 383384 Email: <a href="mailto:appeals@buckscc.gov.uk">appeals@buckscc.gov.uk</a>
Enquiries about other aspects of admissions, and alternative school preferences should be addressed to the relevant Admission Authority:	
<p><b>For Milton Keynes Maintained Schools;</b></p> <p>Milton Keynes Council Children and Families Saxon Court 502 Avebury Boulevard Milton Keynes MK9 3HS</p> <p>Tel: 01908 253338 Email: <a href="mailto:primaryadmissions@milton-keynes.gov.uk">primaryadmissions@milton-keynes.gov.uk</a></p>	<p><b>For an Academy, Foundation or Voluntary-Aided School;</b></p> <p>The governing body of the relevant school</p> <p><b>Oxley Park Academy</b> Redgrave Drive Oxley Park Milton Keynes MK4 4TA</p> <p>Tel: 01908 503870 Email: <a href="mailto:office@oxleyparkacademy.com">office@oxleyparkacademy.com</a> Website: <a href="http://www.oxleyparkacademy.com">www.oxleyparkacademy.com</a></p>
For complaints about Academy appeals:	
Education Funding Agency Admission Appeal Complaints Academies Central Unit Earlsden Park Butts Road Coventry CV1 3BH	Switchboard: 0370 000 2288 Email: <a href="mailto:academy.questions@education.gsi.gov.uk">academy.questions@education.gsi.gov.uk</a> Website: <a href="http://www.education.gov.uk">www.education.gov.uk</a>

Other useful addresses:

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 RRLG-GHUX-CTR  
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: 0370 000 2288  
Website: [www.gov.uk](http://www.gov.uk)