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# **School Admissions Appeals**

**Guidance for Parents 2023**

October 2022

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## School Admissions Appeals – Guidance for Parents 2023

This document explains how you can make an appeal and how the appeals process works at St Michael's School. Please read this document carefully before you complete your form as it contains key information and advice which you will need in order to help you prepare for your appeal. Your appeal will be arranged by the Clerk to the Governors who will convene an independent panel to consider your appeal.

### When do I have a right of appeal for the school place I want for my child?

You have the right to appeal when the school you have chosen for your child to attend is full and your application for a place has been refused by the admission authority.

The admission authority in the case of St Michael's CE Primary School is the Governing Body of the school.

Details of the timetable for appeals can be found on the school website.

You can appeal in the following circumstances:

#### Primary appeals (includes Primary Reception and In-Year admission)

Where your child has been refused a place in the school (s) you named on your original application form during the main allocation process for September 2023 admission. You may also appeal if you have applied for a new school in year (for example if your child has been attending one school and you want them to attend a different school for the coming academic year) and your application has been unsuccessful.

These appeal hearings will take place in the summer term 2023 between (June to July). To ensure your appeal is heard during the summer term, we must receive your appeal (s) by 15 May 2023.

#### ***Please note:***

Appeals for Reception will be subject to Infant Class Size legislation. This special legislation limits the grounds on which appeals can be successful if the addition of your child would mean exceeding the infant class size limit of 30. There are a limited number of exceptions to this rule which can be found in the Fair Access Policy on the Lewisham website.

### 1. Is there anything I should do before deciding to appeal?

If you feel that the admission arrangements were not correctly and impartially applied, (for instance that the Governors did not deal with your application in accordance with the admissions policy set out **on the school's website, under 'Admissions Criteria for children starting school in September 2023'**, or that the decision did not comply with admissions law (for instance it did not comply with the Government's School Admissions Code ), you are strongly advised to discuss this with the school Governors before deciding whether to appeal. If it is agreed that a mistake has been made, and that your child should have been offered a place, it may be possible to put the mistake right without the need to make an appeal.

## 2. Are there circumstances where I do not have the right to appeal?

St Michael's School does not allow parents who have appealed unsuccessfully to re-apply and subsequently appeal again for a place in the same academic year unless there are significant and material changes in your circumstances. Documentary proof of such changes will be required. This is outlined in the national [School Admissions Appeals Code](#).

You will also lose your right to appeal for the school you want your child to attend if your child has been permanently excluded from two or more schools. In this case you are unable to appeal for two years after the most recent exclusion.

## 3. How likely is my appeal to be successful?

Appeals only arise when schools are oversubscribed in a particular age group and as such it is difficult for an appeal to be upheld especially for an infant class size appeal.

### Infant class size appeals

It is highly unlikely that appeals for infant classes of 5, 6 and 7 year olds will be successful due to special legislation that restricts classes to a maximum of 30 pupils with a single teacher. Where the admission authority has refused admission on the grounds that to admit the child would breach the infant class size limit, the circumstances in which an Appeal Panel can uphold an appeal are **severely limited**. In these circumstances the Appeal Panel can only uphold an appeal where:

- it finds that the admission of an additional child would not breach the infant class size limit; or
- it finds that the authority's admission arrangements did not comply with the mandatory requirements of the School Admissions Code, and part 3 of the School Standards and Framework Act 1998;
- it finds that the admission arrangements were not correctly and impartially applied in the case in question;
- it finds that to refuse admission was one which a reasonable admission authority would not have made in the circumstances of the case.

In considering whether the admission arrangements had been correctly and impartially applied, or whether the decision to refuse admission was a reasonable one, the Appeal Panel will only be able to look at information that was available to the Admissions Authority when the decision was taken. This is because, if the Authority was not aware of information when the decision was made, it could not have taken that information into account. New information can only be introduced if it shows that a mistake was made (for instance if the Admissions Authority says that it did not receive your application on time, and you have evidence that the application form was received before the closing date). In addition, it is not enough to show that a mistake was made. It has to be shown that, if that mistake had not been made, your child would have been offered a place.

In considering whether the decision was not one which a reasonable admission authority would have made in the circumstances of the case, the Appeal Panel will need to be satisfied that the decision was 'perverse in the light of the admission

arrangements' i.e. it was 'beyond the range of responses open to a reasonable decision maker ' or 'a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it' ([School Admission Appeals Code](#) section 4.10).

Given the limited nature of the possible grounds on which an appeal may be upheld, Infant Class Size Appeals are rarely successful and your personal reasons for wanting the school, however strong, cannot be taken into account unless any of the above circumstances apply.

**Parents often find it frustrating when they realise how very limited the powers of the appeal panel are. This is being drawn to your attention now in case it affects your decision to go ahead with the appeal or to come to the hearing. The purpose of this guidance is to explain clearly the role of the Panel and not in any way to discourage you from appealing or attending the hearing which is your legal right.**

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

5. For the main reception admission rounds, parents wishing to appeal can do so by filling in the form which can be downloaded from the school website at: <http://www.stmichaels1871.org.uk/information/amissions.html>
6. The appeals form can also be obtained from the school office
- 7.
8. The form should be emailed to the Clerk to the Governors (details on the form) by **15th May 2023**. Alternatively it can be returned to the Clerk via the school office by the same date.

#### **9. School Admission Appeals Timetable**

<b>Date</b>	<b>Event</b>
17/04/2023	Primary intake (September 2023 entry to reception class) offers made
15/05/2023	Deadline for lodging a primary intake appeal
June/July 2023	Appeal hearings

#### **10. What if I miss the deadline for returning my appeal form?**

If you miss the deadline your appeal will still be heard. However, we endeavour to hear all appeals lodged before the deadline by the end of the summer term before your child begins or returns to school. If you do not submit your appeal before the deadline we will not be able to conduct your appeal until the autumn term when your child has already begun or returned to school.

#### **11. What if my child has an Educational Health Care Plan (EHCP)?**

If your child has an Educational Health Care Plan (EHCP), your child's school placement will be dealt with under a separate process. Your child's current statement or EHCP will be amended by the Special Educational Needs Team who will consult the school(s) of your preference and will issue a revised statement or EHCP once a school place has been identified. If you are not satisfied with the revised statement or EHCP including the school place named you will be advised of your right to appeal to the SEN Tribunal. To discuss school admissions for your child, please contact the

Special Educational Needs Team at: [SEN@lewisham.gov.uk](mailto:SEN@lewisham.gov.uk) or on tel 020 3049 1502

## **12. What if my child has a disability and I feel there has been discrimination in the refusal to offer a place?**

If you believe your child has been refused a school place because of his or her disability, you have a right of appeal as this is unlawful under disability legislation. Schools and admission authorities must not discriminate against a disabled child in the arrangements they make for determining admission to school. The Appeal Panel will take into account the Equality and Human Rights Commission's guidance in their Code of Practice for Schools. They must, along with their usual deliberations, consider whether the pupil has been refused admission for a reason that relates to their disability.

## **13. When and where do appeal hearings take place?**

Fourteen days before the hearing the independent appeals clerk will write to you inviting you to the appeal hearing. The email/letter will inform you of the time, date and location of your appeal hearing.

Appeal hearings are usually held at the school. However, due to the coronavirus outbreak, it may not be possible to offer you a face-to-face appeal hearing. We will provide a video conference appeal meeting using Zoom.

To take part in the meeting, you will need access to a computer, tablet or mobile phone with a camera, speakers, and a valid email address. The Clerk will send you a link to the meeting. The Clerk will also arrange a test session at least two days before your scheduled appointment to make sure you can connect with ease.

The remote meetings should remain confidential, and only attended by those invited. You should turn off all recording devices while in the meeting

## **14. What if I do not have the required device to use Zoom?**

Alternative appeal arrangements

Please state in your appeal submission if you do not have access to the required technology or resources, or there are reasons why you do not feel able to take part in a video conference. The Clerk will then discuss alternative options with you, and send you a confirmation of your preferred option.

## **15. Who makes the arrangements for my appeal (s)?**

The governors are the admission authority and therefore responsible for the appeal arrangements

## **16. Who will consider my appeal?**

The letter inviting you to attend the appeal hearing will advise you that you may be accompanied by a friend or representative. The admission authority will send you a statement or written summary of the reasons for refusing your child a place. The statement will also include details of the school you have been offered under the co-ordinated scheme.

Before the appeal starts the clerk to the panel will meet you in the waiting area and escort you to the meeting. An admissions officer will present the school's case explaining why it was not possible to offer your child a place. Please note that if you choose not to attend the appeal, the hearing will go ahead in your absence.

The appeal panel consists of three members who are independent of St Michael's school and are not employees. Panel members may include people who are school governors and people with knowledge of the education provision in the area. These are the three people who will decide whether to uphold your appeal or not.

### **17. Can I go to the hearing?**

Yes, you will be invited to go to the hearing and present your case in person. **Most parents take up this opportunity.** Please let the Clerk know of any dates that you are unavailable and we will try to avoid these if at all possible. You are also able to decide how to organise your presentation to the Appeal Panel.

If you do not wish to attend the hearing, your appeal will be considered on the written evidence you provided with your appeal form. This also applies if you do not arrive for your hearing, having previously indicated your wish to attend and having not contacted the Appeals Clerk.

**Please inform us if you change your mind about attending or decide to withdraw your appeal, so that we can inform the panel and prevent any unnecessary delays to other appellants.**

### **18. Can I bring anyone with me to help me present my case?**

You may bring with you a friend or representative who may speak on your behalf. Bearing in mind the importance of maintaining a reasonably informal atmosphere, it should not normally be appropriate for you to bring a solicitor or lawyer. However, if you do wish to bring a friend or adviser please tell us when you return your appeal form. If you intend to have a legal representative to put your case you **must** inform us in advance as the School may also want to ensure it has legal representation in place. You also have the right to nominate a representative to attend the appeal in your place.

It is not permissible for a representative of the school (s) you are appealing for to accompany you to the hearing or provide letters of support.

### **19. What if I have a special need or disability?**

Please let us know on the appeal form if you have any disabilities or special requirements and need assistance. We will try to meet your needs wherever possible.

### **20. What happens if English is not my first language and I need an interpreter?**

You may have an interpreter at your appeal hearing. If you would like us to arrange this for you please tell us which language you require on the appeal form. Alternatively, if you would prefer, you may arrange your own interpreter. If you are doing this, please let us know when lodging your appeal or as soon as possible before the hearing. You may ask a friend or adviser to speak on your behalf in addition to an interpreter.

## 21. Can I bring my child?

It is for you to decide whether the child for whom you are appealing should attend the hearing. However, it is for the Appeal Panel to decide whether it is appropriate for a child to remain after giving evidence. If you have younger children, we ask that you make alternative childcare arrangements in advance of your appeal.

## 22. What do I need to do and who can help me?

You are responsible for presenting your case, for deciding what you would like to say at the hearing and what written information you want the Appeal Panel to have. The appeal form will be an important part of your case and you need to fill it in as fully and carefully as possible attaching any supporting information to it. The Appeal Panel will be sent a copy before the hearing.

You may also wish to contact the ACE Education Advice which gives independent advice to parents. They have an advice line on 0300 0115 142 Monday–Wednesday 10am to 1pm (term time only). Their website address is [www.ace-ed.org.uk](http://www.ace-ed.org.uk).

### Additional evidence

If you wish to submit further supporting evidence after returning your appeal form, we ask you to do this **at least 7 days** in advance of your hearing. A short document, such as a doctor's letter not previously available will be accepted up to **4 working days** prior to your hearing. However, information received after this deadline will not be circulated and may not be accepted by the panel.

To submit further evidence, please email the Clerk to the Governors at: [vfreeman7.209@lqflmail.org](mailto:vfreeman7.209@lqflmail.org)

**Please note: You cannot submit any evidence after your appeal hearing has taken place.**

## 23. What evidence might the panel need from me?

If your case is based on medical or social reasons you should provide written evidence from a doctor, other medical practitioner or other professional to support this. If your case is based on a house move you should provide written evidence, such as proof of the completion of purchase or a tenancy agreement. The admission authority may seek independent evidence from you regarding your address, prior to your hearing, which confirms or supports what you say. **We advise you not to appeal until you have exchanged contracts.**

We also advise you to provide evidence, including any letters of complaint and other correspondence, if part of your case for seeking a new school for your child is your dissatisfaction with the current school, such as you believe your child is being bullied. **Please note that a member of the admission authority may check with the school concerned so action can be followed up with the school if necessary. The admission authority may also submit written evidence from your child's current school.**

If you have religious or philosophical reasons for wanting your preferred school, we ask you to provide supporting evidence to help the Appeal Panel have a full and proper understanding of your case.

#### **24. Will I know in advance what the admission authority's case is?**

A copy of the admission authority's statement will be posted to you **within reasonable time** before the appeal, unless you have agreed to a shorter period than this. The statement will summarise why it has not been possible to offer a place, which will be either that:

- to admit another child would "prejudice efficient education or the efficient use of resources" at the school; in other words, would have an adverse effect upon educational provision within the school;

Or that;

- infant "class size prejudice" would arise if an additional child were offered a place; in other words, the addition of another pupil would exceed the infant class size limit of 30.

We will also send you a copy of any other document being used by the admission authority as part of its case. All documents that you and the admission authority have sent to the Appeals Team will be passed to the Appeal Panel and Clerk before the hearing. A representative of the admission authority will put forward the school's case to the Appeal Panel.

#### **25. Can I withdraw my appeal?**

You can withdraw your appeal at any time before the hearing date by telephoning the school or writing to the Clerk to the Governors c/o St Michael's CE Primary School, Champion Road, Sydenham SE26 4HH telephone 020 8778 8407. Alternatively you can email the Clerk at: [vfremman7.209@lqflmail.org](mailto:vfremman7.209@lqflmail.org)

**However, you need to be aware that if you withdraw your appeal after you have been given a date and time for the hearing, you will not be able to reinstate that appeal for the remainder of the school year you were appealing for.**

#### **26. What happens at the appeal hearing?**

The appeal is private and all papers and discussions are treated as confidential. the Clerk will give you access into the remote meeting via Zoom, and the Chair will introduce all those present. The Panel will consist of three people, including one with experience in education and one who is a lay member. The Chair may be drawn from either of these categories. The Panel is completely independent of St Michael's School.

The Clerk will also attend the hearing. The Clerk's role is to explain the appeals procedure to all parties and to ensure that the relevant facts provided by yourself and the Authority are recorded, along with the Panel's decisions and reasons. The Clerk is also there to provide advice on law and procedure.

The presenting officer will also attend the hearing, representing the case for the school. This may be the Headteacher or another member of the Governors' Admissions Panel. At the beginning of the hearing, the presenting officer will explain how your application has been dealt with by the school.



The Panel will then ask the presenting officer any questions they need to. You will then have the opportunity to ask questions yourself.

After this, you will be able to put your case to the Panel, in any way you wish. The Chair of the Panel will make sure you are given the opportunity to say everything that you want to say, in your own time. The Panel and the presenting officer may ask you questions about your case if they are unsure about anything you have said.

The presenting officer and yourself will then both be given the opportunity to sum up. When the Panel is satisfied that everyone has said everything they need to say, the hearing will come to an end and you and the presenting officer will leave the room. The Clerk will remain with the panel.

This process may sound formal but it is followed to ensure that appeals are heard efficiently and fairly. The Panel will ensure that you feel comfortable and have the opportunity to say everything which is relevant to your appeal.

After hearing all the appeals for the school, the Panel will decide whether to uphold your appeal or to refuse it. The decision will be recorded by the Clerk.

### **27. How long will my appeal hearing take?**

Hearings generally last for approximately 30 minutes, but may take longer to allow you time to present your case.

### **28. What must the appeal panel take into account in coming to its decision about my appeal?**

It is very important to understand that if you are appealing for an infant class, the law says that the Appeal Panel may only uphold an appeal if:

- (a) it finds that the admission of an additional child would not breach the infant class size limit; or
- (b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or
- (c) the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

In considering whether the admission arrangements had been correctly and impartially applied, or whether the decision to refuse admission was a reasonable one, the Appeal Panel will only be able to look at information that was available to the Admissions Authority when the decision was taken. This is because, if the Authority was not aware of information when the decision was made, it could not have taken that information into account. New information can only be introduced if it shows that a mistake was made (for instance if the Admissions Authority says that it did not receive your application on time, and you have evidence that the application form was received before the closing date). In addition, it is not enough to show that a mistake was made. It has to be shown that, if that mistake had not been made, your child would have been offered a place.

In considering whether the decision was not one which a reasonable admission authority would have made in the circumstances of the case, the Appeal Panel will

need to be satisfied that the decision was 'perverse in the light of the admission arrangements' i.e. it was 'beyond the range of responses open to a reasonable decision maker ' or 'a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it'(School Admission Appeals Code para 4.10).

For appeals which are not subject to infant class size legislation, once the hearing has been completed, the Chair will inform you that the panel will consider, in private, the case you have made and explain how they will reach their decision. If there are several appeals for one school, the decisions will be made after all the appeals for that school have been heard. The presenting officer does not take any part in these decisions.

When considering appeals the panel must take into account:

(a) the wishes of the parents; and

(b) the arrangements for admissions published by the Admission Authority (i.e. the school).

The presenting officer must demonstrate that the decision was made in accordance with the published arrangements and that exceeding the agreed admissions number will affect the quality of the education offered to all children in the year/tutor group. If the panel is not satisfied that the presenting officer has successfully demonstrated its case, your appeal will be allowed without further consideration. If the panel is satisfied that the presenting officer has made its case they will go on to consider your case. If they feel you have outstanding reasons for wanting your child to attend the school they will allow your appeal. The panel's decision is binding on the parent, presenting officer and the school.

### **29. How will I find out the outcome of my appeal?**

It will not be possible for the clerk to tell you the panel's decision at the hearing itself. The clerk will send you the decision in writing, after all appeals have been heard.

### **30. What if I am not happy with the way the appeals process was conducted?**

If you feel dissatisfied with the way in which the Admission Authority has operated its admission arrangements or with the way in which the appeal was conducted, you can complain to the Local Government Ombudsman, [www.lgo.org.uk](http://www.lgo.org.uk) Telephone 0300 061 0614

### **31. Can I appeal again if my appeal is rejected?**

Parents who have appealed unsuccessfully are not allowed to re-apply and subsequently appeal again for a place at the same school in the same academic year unless there are significant and material changes in your circumstances. Documentary proof of such changes will be required. This is outlined in the national [School Admissions Appeals Code](#).

**Please note that all information received for appeals will be shared with the Independent Appeals Panel Members hearing your case, and the Independent Clerk doing the administrative work.**

