



Placing Requests

Guidance on Appealing against a Placing Request Refusal

Date of Issue: 13 March 2022

INTRODUCTION:

Under Section 28(C)(1) of the Education (Scotland) Act 1980 parents whose placing requests have been refused are entitled to appeal against this decision to an appeal committee set up by the council. Appeal committee members in West Dunbartonshire are drawn up from representatives of the council and from school board chairpersons. This information sheet provides guidance on timescales for decisions, how to lodge an appeal and background information on how your appeal would be handled.

Important Note - School placing requests and appeals in 2022

The easing of COVID-19 related restrictions and positive impact of the vaccine programme means that the extended deadlines for local authorities that were in place in 2020 and 2021 for the school admissions and appeals process have been removed. These gave local authorities and appeal committees longer periods for key steps in the process, but these extensions have now been reversed returning to the shorter deadlines that applied previously.

This guidance document provides details of the process and key deadlines for school placing requests and appeal.

The flexibility to hold appeal hearings by video or telephone conference or in writing, if all parties agree, as well as in-person, continues to apply.

Where an appeal committee proposes to hold a hearing by telephone or video conference, it should ensure that each participant has access to video or telephone facilities allowing them to engage in the hearing at all times and present their cases fully, and that the appeal can be heard fairly and transparently.

NOTIFICATION OF DECISION OF PLACING REQUEST:

1. If your placing request was for entry to a school at the start of the new school session, and this request was received before **15 March**, we will provide you with a decision on your placing request by **30 April**.
2. For placing requests received later than **15 March**, we will provide you with a decision within **2** months from receipt of your request.
3. If for some reason you have not been notified of the decision in writing within these time limits, the request will be deemed to have been refused, however we will make every effort to ensure this situation does not occur.
4. Where placing requests are refused you will be given the reason why your request could not be accommodated.

MAKING AN APPEAL:

5. If you want to appeal against a decision not to allow your child to the school of your choice, you must inform the appeal committee no later than **28 days** from the date on which:
 - your request is treated as if the council had turned it down; or
 - you receive the council's letter of refusal (if the letter is received before the date on which your request would be treated as turned down).

It should be noted that there is no right of appeal for a refusal to place a child in a nursery school.

6. You cannot appeal on behalf of a child who has already had an appeal made on his/her behalf within the preceding 12 months unless we have reconsidered the request after a review and refused the request a second time.
7. Appeals should be submitted by email to: Education.PREnrolment@west-dunbarton.gov.uk and you will receive an acknowledgement within **5 working days**.
8. You will be given the opportunity to attend the hearing and speak to the appeal committee. Due to the current pandemic and guidelines on social distancing the appeals process will be different and can take place through video or telephone conference, or, if all involved agree, in writing.
9. You may ask up to 3 people to be present with you during the hearing, and you can ask them to speak on your behalf.
10. If you do not wish to be present, you can nominate someone else to attend and speak for you.
11. Alternatively you may simply submit a written submission detailing your appeal and this will be considered by the committee.
12. If you decide to submit written representations these must be sent by email to: Education.PREnrolment@west-dunbarton.gov.uk at least **10 days** before the date of the hearing. It is to your advantage to ensure that all relevant facts are given in advance, as any new evidence introduced at the hearing can result in an adjournment to the hearing to provide time for this new evidence to be considered. Any written representation which the education representative wishes to make to the appeal committee will be copied to you at least **10 days** before the appeal is to be heard.

ARRANGEMENTS FOR APPEAL HEARING

13. The appeal hearing will be held within **28 days** of receipt of your appeal, unless there is joint agreement to hold it at a later date, or unless the committee consider that the appeal should be heard together with another or other appeals, in which case the date fixed will be arranged within **28 days** of receipt of the last appeal

received. You will be given **14 days** notice of the date, time and video conferencing/audio arrangements for the hearing.

14. Should the date arranged not be suitable you can ask for another date to be arranged. There is no obligation on the committee to rearrange their programme and they would only do so if a very good reason was given. If the hearing proceeds as planned, you may wish to invite someone else to represent you.
15. In certain circumstances, for example where a number of requests for places in a school are refused for the same reason, the Appeal Committee may wish to consider all appeals simultaneously. You can request that other parents withdraw when you submit your case.
16. An appeal committee will not exceed 7 in number, and will normally comprise of members of the council and school board chairpersons. The committee will be clerked by a council officer and with the consent of the chairperson of the appeal committee there may be one or two others present as observers. The public are not admitted; the hearings are held in private.

FORMAT OF APPEAL HEARING

17. The format of the hearing is detailed below:
 - (1) The education representative will explain why your request was refused and evidence may be heard in support of this.
 - (2) You, or the person speaking on your behalf, may ask questions on the evidence.
 - (3) You, or the person speaking on your behalf, may explain why you think the placing request made should be granted. You may produce evidence in support of your statement. (You may wish for your written statement lodged in advance to be used).
 - (4) The education representative may then question you and your witness.
 - (5) The education representative will then sum up on behalf of the council.
 - (6) You, or your representative, may sum up on your behalf
18. If any paper is submitted please try to ensure that there are sufficient copies for all present. If any new evidence is brought forward, either party may seek an adjournment.

DECISION OF APPEAL COMMITTEE

19. The decision of the appeal committee will be given in writing to you within **14 days** of the conclusion of the hearing. The reasons for the decision will also be supplied. In the event of your appeal being refused you have the right to appeal against the decision of the committee to the Sheriff where there is no guarantee that such an appeal to the Sheriff would be accepted.
20. If the Appeal Committee:

- does not hold a hearing within 2 months of receiving your letter saying you want to appeal;
- does not fix a date for the hearing to continue within 14 days of adjourning a hearing; OR
- does not give their decision and their reasons for it within 14 days of ending a hearing,

the council's decision to refuse your request remains in force, but you can appeal to the Sheriff in the same way as if the appeal committee had agreed with the council's refusal.

FURTHER INFORMATION / REGULATIONS

21. Further information on appeal committees and their operation can be found in "*Choosing A School - A guide for parents*" Guidance which can be accessed from the website: <https://www.gov.scot/publications/choosing-school-guide-parents-nov-16/>

Relevant Regulations:

- Education (Scotland) Act 1980 (as amended) (HMSO)
- Education (Scotland) Act 1981 (HMSO)
- Education (Scotland and Placing Information) (Scotland) Regulations 1982 (as amended 1990/1993) (S125 1982 No 950)
- Education (Appeal Committee Procedures) (Scotland) Regulations 1981 (S1 1981 N1560)
- Education (Placing in Schools etc. – Deemed Decisions) (Scotland) Regulations 1982 (S1 185 No 1733)
- Education (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2021
- Scottish Education Department Circular 1074/1080 (SED, New St Andrew's House, Edinburgh)