

## **Renfrewshire Council: Children's Services**

### **Making an appeal against a refusal to place**

#### **Your child in the school of your choice**

##### **Information for parents**

Where we have not been able to grant a placing request, we will write to tell you. This letter will include the reason(s) why we refused your request.

Under Section 28C (1) of the Education (Scotland) Act 1980 parents whose placing requests have been refused are entitled to appeal against this decision. You must appeal to the Director of Children's Services within 28 days of receiving the letter refusing your request. Your appeal will be heard by an appeal committee set up by the council. Appeal committee members are drawn from representatives of the council and from local attendance councils, which consist of representatives from parent councils.

The information which follows outlines how to lodge an appeal and gives you background information on how your appeal would be handled.

1. We must provide you with our decision on your original request by 30 April
  - if the placing request was for entry to a school at the start of the new school session, and
  - your request was received before 15 March.

In other cases we have to tell you our decision within two months of receiving your request.

If we do not write to tell you our decision within these time limits we are assumed to have refused your request and you can appeal against this decision in the Sheriff Court. We will make every effort to ensure that this does not happen.

2. If you wish to appeal, you are required to lodge your appeal to the council within 28 days of receiving the letter telling you that your request has been refused, or to the Sheriff Court within 28 days of the date on which your request was deemed to have been refused, i.e. by 28 May or within two months and 28 days of making your request.

You have no right to appeal against a refusal to place your child in a nursery school.

3. No matter how many requests you have made you can only make one appeal in a twelve month period unless we have reconsidered your request, after a review, and have refused your request a second time.

4. If you wish to lodge an appeal you should write to the Director of Children's Services, Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley, PA1 1TZ.

Your letter should give your name and address, the name of your child for whom the appeal is being made, the name and address of the school of your choice, the date and reference of the letter of refusal and a statement indicating why you wish to appeal against this decision, i.e. that the council has rejected your placing request unfairly in terms of its stated procedures.

5. You will be given the opportunity to go to the hearing and speak to the appeal committee. You may ask up to three people to accompany you and if you wish you can ask one of them to speak on your behalf. If you do not wish to be present, you can nominate someone else to attend and speak for you.

You may submit your case in writing and if you choose to do so please read paragraph 6 carefully.

Finally, you may simply submit your letter of appeal and this will be considered by the committee.

6. Any documentation you wish to use to support your appeal must be lodged with Committee Services at least 10 days prior to the date you have been given for your appeal hearing. Any such documentation will be made available to us. Any documents which we wish to present to the appeal committee will be copied to you at least 10 days before the appeal is heard.

It is to your advantage that all relevant facts are given in advance. If new evidence is introduced at the hearing, an adjournment may be necessary to provide time for the new evidence to be considered.

Committee Services are located in Finance & Resources, Legal & Democratic Services, Renfrewshire House, Cotton Street, Paisley, PA1 1TR

7. If you lodge an appeal, you will receive an acknowledgement within 5 working days of receipt. The hearing will be arranged 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 about 14 days notice of the date, time and location of the hearing.

If the date arranged is inconvenient 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 you are unable to attend and the hearing proceeds as planned, you may wish to invite someone else to represent you.

8. In certain circumstances, for example, where a number of requests for places in a school are refused for the same reason, an appeal committee may wish to consider all appeals simultaneously. You can request that other parents withdraw when you submit your case.
9. An appeal committee will not exceed seven in number, and will normally comprise councillors from Renfrewshire Council and representatives nominated by parent councils. The committee will be clerked by a council officer. With the consent of the chairman 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.

Sometimes Children's Services will be represented by a solicitor from the local authority. You may wish to consider this when you are preparing your case, suggesting any person to speak on your behalf or instructing your own solicitor.

10. The procedure for the conduct of an appeal hearing is set out in statutory guidelines. At an appeal hearing Children's Services must convince the appeal committee of two things. First, that there are statutory grounds for refusing to grant your request, and second, that in all the circumstances it is correct to do so.

The chairman will explain how the hearing will be conducted.

This will usually be as follows:-

- (1) The onus is on Children's Services to prove that they have grounds for refusing to grant your request and in all the circumstances, it is correct to do so. So our representative will speak first supported by our witnesses. He or she will explain why your request was refused
- (2) You, or the person you have indicated will speak on your behalf, can then ask us and our witnesses' questions on what we said. After answering any questions you ask, we can clarify any points, then ask you or your spokesperson questions.
- (3) When all our witnesses have finished, you, or the person speaking on your behalf, can then 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) We may then question you and your witnesses.

Please note that members of the appeal committee can ask questions and attempt to clarify any points made by either party, at anytime.

- (5) We will then sum up on behalf of the council. You are not allowed to question this.

- (6) When this is complete, you or your representative may sum up your case. You cannot be questioned on this.

If any paper is submitted at the appeal please try to ensure that there are sufficient copies for all present. Remember if any new evidence is brought forward, either party may seek an adjournment. The hearing must be continued within fourteen days of an adjournment.

11. The appeal committee's decision will be given to you in writing within fourteen days of the end of the hearing. This letter will include the reason(s) for the decision. If your appeal is refused you have the right to appeal against the decision to the Sheriff.
12. If a hearing is not held within 2 months of receiving your letter of appeal, or you are not given a decision within 14 days of the end of the hearing, or if a hearing is not continued within 14 days of adjournment, you are entitled to deem the application refused and you can appeal to the Sheriff.

This information provides general guidance about appeals procedures. This is a matter that affects your rights and duties as a parent and in consequence you may wish to consider seeking independent legal advice.

Specific information on appeals committees and their operation will be found in :-

Education Scotland Act 1980 (HMSO)

Education (School and Placing Information) (Scotland) Regulations 1982 (as amended 1990/1993) (S125 1982 No 950)

Education (Appeal Committee Procedures) (Scotland) Regulations 1981 (S1 1981 No 1560)

Education (Placing in Schools etc-Deemed Decisions) (Scotland) Regulations 1982 (S1 185 No 1733)

Scottish Education Department Circular 1074/1080 (SED, New St Andrew's House, Edinburgh)

Choosing a School - A guide for parents (SED, New St Andrew's House, Edinburgh)