

PERTH AND KINROSS COUNCIL

INFORMATION LEAFLET FOR PARENTS

EDUCATION (SCOTLAND) ACT 1980 AS AMENDED
APPEAL COMMITTEES

PARENTAL CHOICE OF SCHOOL

EXCLUSION FROM SCHOOL

The Education (Scotland) Act 1980, as amended by the Education (Scotland) Act 1981 and the Education (Scotland) Act 1996, gives parents certain rights to choose their child's school, and also, once their child has started attending school, to appeal if a decision is taken to exclude the child from school. If parents are not satisfied with an education authority's decision on either of those two points, they can refer their case to an Appeal Committee.

Perth and Kinross Council, as Education Authority, has therefore set up Appeal Committees to consider appeals by parents against the Council's

- refusal of their request for places in schools of their choice for their children, or
- decision to exclude their child from school.

This leaflet gives some information regarding Appeal Committees in question and answer form for ease of reference. If you would like any further information, please contact:

The Clerk
Perth & Kinross Education Appeal Committee
Perth & Kinross Council
2 High Street, Perth PH1 5PH
Email cirons@pkc.gov.uk or jadamson@pkc.gov.uk
Telephone 01738 475120

- NOTE:**
- (a) The rights of appeal given to parents by this legislation in respect of their children are also given to the pupils themselves if they are over compulsory school age.
 - (b) Generally speaking the rights in relation to choice of school apply also to children receiving special education. It should be noted however, that the circumstances in which a placing request for a recorded child may be refused are slightly different

Q.1 WHAT POWERS DOES AN APPEAL COMMITTEE HAVE?

A.1 (a) Choice of School

An Appeal Committee must decide whether there is a good *legal reason for refusing your placing request and whether it is appropriate in all the circumstances to do so.

If the answer on both counts is yes, the Appeal Committee will confirm the Council's decision to refuse your request.

If, on the other hand, the Appeal Committee is not satisfied on either count, it will tell the Council to let your child into the school of your choice, and the Council will be obliged to admit your child to the school concerned.

* The circumstances in which your placing request can be refused are listed in the Appendix at the end of this leaflet.

(b) Exclusion from School

The Appeal Committee can confirm or annul the decision of the Council to exclude your child. If the Council had attached conditions to your child's re-admission to school, then the Appeal Committee can confirm the decision but modify the conditions. The Council has to comply with the decision of the Appeal Committee.

Q.2 CAN ANY PARENT APPEAL TO AN APPEAL COMMITTEE?

A.2 Yes, except in the following circumstances:-

- (a) There is no appeal against refusal of a place in a nursery school.
- (b) You cannot appeal if a previous appeal against refusal of a request for placement in a school of your choice concerning the child in question has been lodged in the preceding 12 months.

Q.3 WHO ARE THE MEMBERS OF AN APPEAL COMMITTEE?

A.3 An Appeal Committee will have 3 members:-

One person appointed by the Council being a person with experience in education and acquainted with educational conditions in the area, who chairs the Appeal Committee;

One person who is a member of the Lifelong Learning Committee or of the Council;

One person who is a parent of child/ren attending a school in Perth and Kinross;

Nobody who is involved in the consideration of your placing request earlier can be a member, nor can a teacher or parent of a pupil at the school of your choice or the school the Council is suggesting your child should attend. Similarly, persons who have been involved in an exclusion decision cannot be members.

Q.4 WHERE AND WHEN WILL APPEAL COMMITTEE MEETINGS BE HELD?

A.4 Normally meetings will be held during office hours at an appropriate location in Perth and Kinross.

Alternative arrangements may be made in exceptional circumstances.

Q.5 WHAT HAPPENS AFTER I HAVE SUBMITTED AN APPEAL?

A.5 You will get an acknowledgement of your appeal within about a week of sending your letter. It may take up to 2 weeks for you to be told the date, time and place of the Hearing. The Hearing itself will probably take place about 2 weeks after that.

Q.6 WHAT FORM WILL AN APPEAL COMMITTEE MEETING TAKE?

A.6 The meeting will take the form of a Hearing which will be as informal as possible.

At the Hearing

- a representative of the Executive Director, Education and Children's Services will explain why your placing request should be refused, or why your child has been excluded from school
- you may ask the representative any questions
- you will have the chance to state why the placing request should be granted, or why your child should be re-admitted to school
- the representative of the Executive Director, Education and Children's Services will be given the opportunity to ask you questions, and then sum up the Authority's case
- you will be able to sum up your case

Either yourself or the Executive Director, Education and Children's Services' representative may call evidence or question any witnesses at the appropriate stages.

Members of the Appeal Committee may also ask questions of both yourself and the Executive Director, Education and Children's Services representative.

Q.7 HOW CAN MY CASE BE PRESENTED AT A HEARING?

- A.7** You can appear at the Hearing to present your case, either on your own or with help, you can have someone present your case for you (eg a friend or lawyer who would take your place in the procedural stages mentioned in A.6 above); or you can let your case rest on your letter of appeal, supplemented by written representations if you wish.

The maximum number of people you can bring with you to a Hearing to help you present your case is 3.

If you decide to let your case rest on written representations, you must submit them to The Clerk, Perth & Kinross Education Appeal Committee **at least 10 days** before the date fixed for the Hearing. If you choose to represent your case in this way, you will be well advised to think about the content of your representations as soon as possible.

Q.8 WHEN WILL I BE TOLD THE DECISION OF THE APPEAL COMMITTEE?

- A.8** You may be told the decision at the end of the Hearing. If not, you will be given the decision within 14 days. The Chairman will let you know at the end of the Hearing whether the decision is to be given straight away or later. The decision will be given to you in writing.

Q.9 IS THE APPEAL COMMITTEE'S DECISION FINAL?

- A.9** You have the right of appeal to the sheriff within 28 days of receipt of the Appeal Committee's decision. If the Appeal Committee's decision is in the Council's favour, rather than yours, you will be told the appeal procedure in the letter advising you of the decision.

APPENDIX

The Council does not have to admit your child to the school of your choice:

- If to do so they would have to employ an additional teacher or spend a lot of money, for example, where the Council would have to provide an additional classroom.
- If a child's education would suffer from a change of school.
- If education in the school you want would not be suitable to the age, ability or aptitude of your child. This might apply if parents want their child to be admitted to a stage of education for which the child is not yet ready, or to a school which cannot meet the child's needs.
- If they think that your child can only be provided for in the school you want at the expense of the other pupils' education.
- If the school you want has been provided for children with additional support needs, and the Council thinks that your child does not need the special equipment or specially trained staff they have provided in that school.
- If your child has been very troublesome at school. If a child is excluded from a school, the Council is not bound to re-admit him or her. If a child has been in constant trouble, and his or her parents ask for them to be moved to another school, the Council can refuse to provide a place if they think that he or she would be likely to disturb the order and discipline in that school, or the educational well-being of pupils attending the school. They may indeed suggest another school better able to cope with the child.
- If you want your daughter to go to an all boys' school, or your son to an all girls' school.
- If accepting the request would prevent the Council reserving a place at the school for a child likely to move into the area of the school in-year.
- If accepting the request would make it necessary for the Council to create an additional class or employ an additional teacher at a future stage of your child's primary education.
- If accepting the request would mean that the capacity of the school would be exceeded in terms of pupil numbers.

THIS SECTION OF THE LAW IS IMPORTANT. You may wish to know the exact words used to describe the circumstances in which the Council may refuse your request. These are set out in Section 28A(3) of the Education (Scotland) Act 1980, as inserted by Section 1 of the Education (Scotland) Act 1981, and as amended by Section 33(3) of the Education (Scotland) Act 1996 and are:

- (a) if placing the child in the specified school would –
 - (i) make it necessary for the authority to take an additional teacher into employment;
 - (ii) give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school;
 - (iii) be seriously detrimental to the continuity of the child’s education;
 - (iv) be likely to be seriously detrimental to order and discipline in the school;
or
 - (v) be likely to be seriously detrimental to the educational well-being of pupils attending the school.
 - (vi) assuming that pupil numbers remain constant, make it necessary at the commencement of a future stage of the child’s primary education, for the authority to elect to create an additional class (or an additional composite class) in the specified school or take an additional teacher into employment at the school;
 - (vii) though neither of the tests set out in sub-paragraphs (i) and (ii) above is satisfied, have the consequence that the capacity of the school would be exceeded in terms of pupil numbers.
- (b) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child;
- (c) if the education authority have already required the child to discontinue his attendance at the specified school;
- (d) if, where the specified school is a special school, the child does not have special education needs requiring the education or special facilities normally provided at that school; or
- (e) if the specified school is a single sex school (within the meaning given to that expression by Section 26 of the Sex Discrimination Act 1975) and the child is not of the sex admitted or taken (under that section) to be admitted to the school or
- (f) if the acceptance of a placing request for a child who is resident outwith the catchment area of the specified school would prevent the Education Authority from retaining reserved places at the specified school or in relation to any particular stage of education at the specified school.

But Section 28A (3) goes on to say that

“an education authority may place a child in the specified school notwithstanding paragraphs (a) to (f) above”.