

PLACING REQUEST APPEAL COMMITTEE INFORMATION SHEET FOR PARENTS, CARERS, YOUNG PERSONS AND PUPILS

How to appeal a refused school placing request

If your request for a place at the school of your choice in Midlothian was not granted, you are able to appeal that decision. Your appeal will be heard by an independent Education Appeal Committee (EAC). This information sheet will tell you what you need to do and what to expect at the appeal.

What is the Education Appeal Committee?

The EAC is an independent panel made up of Midlothian Councillors and volunteers, who will either have school aged children or experience in education matters. No-one on the panel will have been involved in the decision making for school admissions.

The EAC are supported by Midlothian Council's Education Appeals team. The Education Appeals team work in the Democratic Services department: they are employed by the local authority, but have no involvement in the decision making regarding the admission of children to school. They will be responsible for arranging the hearings, circulating papers and liaising with parties to the appeal. One of the Education Appeals team will be the Clerk to the EAC. The Clerk is also responsible for producing a record of the hearing and may be called on to give advice on procedure to the EAC during the course of the hearing. They will be in touch with you to make arrangements for the hearing.

How to submit an appeal

You need to have a decision letter from the Pupil Placement team at Midlothian Council before you can appeal. It is important you submit your appeal within 28 days of receiving that letter.

Parents are able to appeal if their child is of school age. Pupils over school age will require to appeal themselves. Recognised carers, and children who are deemed to have legal capacity, are also able to appeal.

You can appeal by following this link - [Appeal a refused school placing request | Midlothian Council](#)

Alternatively, you can appeal by post to;

Education Appeals
Midlothian House
40 – 46 Buccleuch Street
Dalkeith
Midlothian
EH22 1DN

Please be aware that you are only able to appeal one placing request refusal in a 12 month period. That means if you appeal a decision today, you cannot appeal another decision for a further 12 months. You also cannot make an appeal today if you have made an appeal in the last 12 months

It is important to note the EAC only has the power to grant or refuse your appeal.

It **cannot**:

- attach conditions to your appeal

- hear complaints or objections on wider aspects of school admission policy for example, it cannot change the catchment area of a school, or the number of places reserved for children moving into catchment
- change your position on the waiting list

Arranging the appeal committee hearing

After you submit your appeal, the Education Appeals team will get in touch about arrangements to have your appeal heard. They will tell you the date of your hearing once this has been arranged.

Appeals will be heard from late May onwards.

A hearing will be arranged within 28 days of receiving your request, or as soon as possible thereafter.

You will be given at least 14 days' notice of the date of the hearing.

You will be given the option to attend the hearing in person, at Midlothian House, Dalkeith, or remotely via Microsoft Teams.

Information to support your appeal

If you have already sent written information to Education Appeals with your original placing request, this will be included in the hearing papers. If you have any additional information you would like the committee to consider, please email this to Education Appeals - Education.Appeals@midlothian.gov.uk **at least 10 calendar days before the hearing.**

Some examples of written information that could support your appeal are:

- if your case is based on medical grounds, you should, where possible, provide written evidence from a doctor or health visitor, social worker or other professional to support this
- if your case is based on social grounds, you should, where possible, provide written evidence from a social worker or other professional to support this
- you should also submit any other letters, written reports or documents that provide evidence in support of your case.

Presenting your case to the appeal committee

Before the hearing takes place, you should decide how you want to tell the EAC about your reasons for appealing. Think about what you want to say including all relevant information and any questions you would like to ask.

The sort of things you will need to decide are noted below but it is not essential that you do any of these things. Even if you do not give written arguments, or attend the hearing, the committee will consider the information given to them by the Education Authority and then reach a decision on your case.

It is **very important** that you tell the EAC everything that is relevant to your case. The hearing is confidential so please make the most of this opportunity to say everything you need to.

- you can go to the hearing and speak to the appeal committee yourself.
- you can take up to three people with you, and if you do not wish to speak yourself, you can ask one of these people to speak for you.
- if you can't go to the hearing yourself, you can ask somebody else to go in your place and speak for you

- you can send in your arguments in writing beforehand, even if you also want to go and speak, or ask someone else to speak for you.
- If you do not wish to attend the hearing, and do not wish someone to speak on your behalf, you can ask the appeal committee to decide based on the written information you have provided.

The Education Authority's case

You will be emailed a full set of hearing papers before the appeal. These will contain:

- a report detailing the Education Authority's case, explaining the reasons for refusing your child's placing request.
- your letter of appeal and any additional written information that you have supplied.

You should receive these at least 10 working days before the advised Hearing date.

There are a number of legal reasons why the Education Authority may turn down a placing request. The most common of these are listed below. These are found in the Education (Scotland) Act 1980, section 28A(3), Education (Scotland) Act 1980

Granting your child's placement may:

- make it necessary for the authority to take an additional teacher into employment
- give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school
- be seriously detrimental to the educational wellbeing of pupils attending the school
- be likely to be seriously detrimental to the educational wellbeing of pupils attending the school
- 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 either to create an additional class (or an additional composite class) in the specified school or to take an additional teacher into employment at that school
- have the consequence that the capacity of the school would be exceeded in terms of pupil numbers
- prevent the education authority from retaining reserved places for incoming catchment pupils

The Education Appeal Committee

There will be three or five people who sit on the EAC. These people will be:

- Volunteer members, drawn from a panel of suitably qualified people with experience in education or who know about the education conditions in Midlothian or who have children of school age; and
- Midlothian Councillors

The EAC is an independent committee. None of these people will have had any involvement in the decision to refuse the place at the school you requested for your child. None of the members of the EAC will be a parent or a teacher at the school concerned.

Apart from the Clerk from the Education Appeals team, people speaking for you, a person representing the Education Authority and the appeal committee members themselves, only a limited number of other people may be at an appeal hearing. Members of the

public cannot attend (unless they are representing you, or one of the three people you can bring as supporters).

However, there are rare occasions when representatives from the Scottish Committee of the Council on Tribunals may be in attendance to ensure that the EAC operates fairly. Also new members of staff in the Council that offer procedural advice and administrative support to the EAC may sit in as an observer but both parties will be asked in advance if they have any objections to the observer being present.

What happens at the appeal committee hearing?

When the EAC hearing starts, the Chair will say how the committee intends to conduct the proceedings. Normally the order will be:

The Education Authority's case

The person speaking for the Education Authority will explain why your request has not been granted. Then you, or the person you have asked to speak for you, can ask questions, as can members of the appeal committee.

Your case

You, or the person speaking for you, can tell the EAC why you think your child should get a place in the school you want.

If you have written down your reasons and sent them to the EAC beforehand, you can say, if you want, that you have nothing to add to your written evidence.

Then the person speaking for the Education Authority and the EAC can ask you questions.

Summing up

Each side will be invited to sum up and repeat the important parts of their case.

Adjournment of a hearing

It is possible that the hearing may be adjourned. This would happen in the following circumstances:

- If some of the appeal committee members are unexpectedly unable to attend, or if an appeal committee member has to leave before the end of the hearing,.
- If either you or the Education Authority provide information which the other did not know about at least ten days before the hearing. If the EAC are satisfied that it is significant information which has not been made available to the committee or parties, they must adjourn and fix a later date for the rest of the proceedings.
- If the EAC themselves need further information or advice, the hearing may be adjourned. For example, it may be that some legal point has arisen, and legal advice is required.

- Where the EAC are satisfied that either you or the Education Authority requires to get further relevant information or advice for the presentation of the case, then they may adjourn the hearing.
- If either you or the Education Authority's representative are prevented by exceptional circumstances from attending the hearing (e.g. bad weather or illness), then the hearing may be adjourned if it is reasonable to do so.
- A hearing may also be adjourned in order to be combined with another similar reference dealing with the same school and the same stage of education.

Making a decision

Both you and the person speaking for the Education Authority will then be asked to leave the hearing. The EAC will discuss the case in private and will reach a decision.

The Committee must give their decision within 14 days of the end of the hearing. They must also give their decision in writing to you and to the Council and they must give their reasons for it.

You will be notified by telephone of the appeal committee's decision within 48 hours of the day of the hearing, this will be followed up by a detailed letter outlining the decision.

Further Right of Appeal to the Sheriff Clerk

After the appeal committee has heard all the evidence, it can still decide that the Education Authority was right to refuse a place for your child in the school you wanted. If you still feel strongly that the Education Authority should have given your child a place, you can submit a further appeal to the Sheriff Clerk. If you decide to appeal, you must do this within 28 days of receiving the appeal committee's decision. You should submit your appeal in writing to:

The Sheriff Clerk
 Sheriff Court House
 27 Chambers Street
 Edinburgh
 EH1 1LB

The following link will give you further information on how to lodge an appeal with the Sheriff Clerk - [Summary Applications \(scotcourts.gov.uk\)](https://www.scotcourts.gov.uk/summary-applications)