

# Infant Class Size Limit and Exceptions Q&A

## Introduction

This Q&A has been produced so as to assist in the 2015 Pupil Level Annual School Census (PLASC) and as a quick guide to infant class size legislation and infant class size appeals. Full guidance will be issued in due course, most likely in the spring of 2015.

## INFANT CLASS SIZES

### What is Infant Class Size Legislation?

This is the legal limit on “class sizes for infant classes” i.e. any class where *the majority* of children will have reached the age of 5, 6 or 7 *by the end of the academic year*. Legislation says that:

*“no infant class ....shall contain more than 30 pupils while an ordinary teaching session is conducted by a single school teacher”.<sup>1</sup>*

An ‘ordinary teaching session’ does not include a school assembly or other school activity usually conducted with large groups of pupils<sup>2</sup>, and such activities should not be included in the class size count for PLASC purposes.

The infant class size limit is the maximum number (30) of children that can be taught in an infant class. An infant class may comprise children from one year group or a mixture of different year groups i.e. Reception, Year 1 and Year 2, taught by a single school teacher, and can include nursery pupils where older children are still in the majority.

### Has the extra funding to ensure that we comply with the class-size limit been taken away?

Separate funds were originally put aside to help schools reorganise to meet class-size limits e.g. to create additional class-rooms and to employ additional teachers. However, funding to help local authorities meet the class size limit is now included within RSG allocations. Local authorities can choose to include in their funding formula a factor to direct resources to schools with KS1 classes to enable them to meet the class size commitment.

### If a class goes over 30 can we put another adult in to support the teacher?

Not necessarily, they must be a ‘school teacher’ as set out in **Annex A**.

### Can an HLTA be in charge of a class?

To avoid confusion over who can or cannot teach an infant class unsupervised, **Annex A** clarifies this by giving a definition of ‘school teacher’ for infant class-size purposes.

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<sup>1</sup> The Education (Infant Class Sizes) (Wales) Regulations 1998 and the Education Act 2002

<sup>2</sup> Section 4, School Standards & Framework Act 1998

### **How many teachers should there be in an infant/primary school?**

A school must employ sufficient teachers to enable it to teach its infant classes in groups of no more than 30 pupils per school teacher.

## **ADMISSION NUMBERS AND CLASS ORGANISATION**

### **What is a School Admission Number?**

The school admission number is the minimum number of pupils that must be admitted to a school in each year group if there are sufficient requests for admission.

The admission number is calculated from the capacity of the whole school. The capacity calculation is divided by the number of year groups; this number is the admission number. Admission numbers vary and do not always readily fit with infant class size legislation. They should normally provide both the minimum and maximum number of pupils to be admitted to a year group, as admitting additional pupils may cause overcrowding and prejudice to the delivery of education not only in the school but in the wider area if some schools are overfull and others do not reach capacity.

### **Who organises the classes?**

Classes are organised by the Headteacher and governing body, when they know the number of pupils being admitted for the forthcoming September. Their planning should take into account any nursery or reception age children that may be admitted later in the school year because of staggered or deferred entry. Whilst additional admissions may not be absolutely predictable, planning should lead to less likelihood of there being a problem with oversize classes. Planning in this way will help to ensure compliance with the infant class size legislation.

### **Can we refuse to admit a child if we would have to move to mixed age teaching?**

Not necessarily. When dealing with applications for admission at normal point of entry i.e. Reception, the admission authority for the school must admit up to its published admission number.

For Year 1 or Year 2 applications, the admission authority could refuse admission if it would be necessary to employ another teacher or incur some other cost in order to comply with the class size limit. As many schools have successfully adopted mixed-age teaching within the foundation phase it might be difficult to justify this as a reason for refusing admission, if it is possible to arrange classes to meet the limit without increasing the number of teachers or classes.

### **Why should we mix age groups?**

Mixed age teaching should be used when numbers permit, to ensure that classes remain below the limit, although it is recognised that there might be barriers to mixing foundation phase with older pupils. There should be no evidence of overlarge infant classes alongside infant classes with space.

### **What if the school admission number and the infant class size are not compatible?**

There is sometimes confusion between the admission number for a school and the class size limit especially where they are close. The admission number takes

precedence over class size and should not be exceeded. If the admission number for a school is 29 and there are 30 applications only 29 pupils should be admitted, conversely if the admission number is 31 all applicants up to the number must be admitted not just 30 to comply with infant class size legislation.

### **What do we do if our admission number is more than 30?**

If applications for the normal year of entry (usually Reception), are up to but do not exceed the school admission number, admission authorities must admit all pupils up to the school admission number; even if the effect of this might be that they would have to employ another teacher or restructure classes in order to comply with the infant class size legislation. For example, a school with an admission number of 40 might employ two teachers for Reception, or combine Reception and Year 1 and Year 1 and Year 2 and have 120 pupils split between 4 teachers ensuring compliance throughout the Foundation Phase.

Reception	30
Reception/Year1	10/20
Year 1/Year 2	20/10
Year 2	30
Total	120

Admission authorities may refuse admission for places in any year other than the normal year of entry i.e. Reception, if offering a place would result in prejudice (e.g leading them having to employ an additional teacher or create another classroom).

## **INFANT CLASS SIZE EXCEPTIONS**

### **What are categories of infant class size exceptions?**

Regulations<sup>3</sup> prescribe the limited circumstances in which pupils may be admitted as exceptions to the infant class size limit. The text in brackets is for clarification and the identifying letters match the PLASC categories. The exceptions are as printed in the PLASC guidance:

- A. Children whose statements of Special Educational Need (SEN) specify that they should be educated at the school concerned, **and** who were admitted to the school **outside** a normal admission round.
- B. Children initially refused admission to a school, but subsequently offered a place **outside** a normal admission round by direction of an admission appeal panel, or because the person responsible for making the original decision recognises that an error was made in implementing the school's admission arrangements.
- E. Children who are registered pupils at special schools, but who receive part of their education at a mainstream school.

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<sup>3</sup> The School Admissions (Infant Class Size)(Wales) Regulations 2013

- F. Children with SEN who are normally educated in a special unit in a mainstream school, but who receive part of their lessons in a class with infants in the mainstream.
- G. Children who are looked after by local authorities (looked after children), or who have ceased to be looked after (previously looked after children) as a result of being adopted or being placed with a family or given a special guardian **and** are admitted to the school **outside** a normal admissions round.
- J. Children admitted **outside** the normal admission round who:
  - the maintaining **local authority confirmed** cannot gain a place at any other suitable school within a reasonable distance of their home because they have moved in to the area **outside** the normal admission round, or
  - they desire a religious education or a Welsh speaking education and the school in question is the **only** suitable school within a reasonable distance (of their home).
- K. Children who were admitted to the school **outside** the normal admission round (for the reception year NOT Year 1 or 2) **after** the which the school has arranged its classes, and **after** the first day of the school year (but the admission number has not been met) the effect of which would mean that the school would have to take a relevant measure if such children were not excepted pupils. (If it would be feasible to rearrange classes at that point, this should be considered before deciding the child is an exception.)
- L. Children of (serving) armed forces personnel who are admitted **outside** the normal admission round.
- M. Children whose twin or other sibling(s) from a multiple birth are admitted as non-excepted pupils, as the final pupil(s) allocated a place before the admission number is reached.

Children in categories E and F will be treated as excepted pupils only when they are in an infant class at the mainstream school or outside the special unit (as the case may be).

**Is any child admitted outside the normal admission round an exception?**

No, only the children that fit the exception categories above may be classed as exceptions.

**If twins or other multiple birth children are permitted exceptions must they always be admitted?**

Not necessarily. They would only be admitted if one of the siblings is the last pupil to be admitted i.e. if the admission number is 30 and one of the siblings is the 30<sup>th</sup> pupil offered a place and the other(s) were not offered a place) then these sibling(s) may be admitted as an exception(s).

### **How long does a child stay an exception?**

Any child admitted to a school as an excepted pupil since 9 July 2013 may remain an excepted pupil for the duration of their time in the Foundation Phase. However, as soon as the opportunity presents itself either by pupils leaving the class/school, by class reorganisation or the appointment of an additional teacher it is expected that the pupil would cease to have excepted status and that the classes would comply with the class limit of 30 pupils or fewer. Schools are expected to take every opportunity to limit the classes to 30 pupils or fewer.

### **What if a pupil leaves a class with excepted pupils?**

A pupil retains their excepted status until such time as relevant measures are taken to reduce the class size or one or more pupils leave the class. The pupil in this instance would no longer have excepted status; they would become an ordinary class member.

Another pupil cannot be admitted to the class in place of a pupil who has left even though there is a formerly excepted pupil in the class.

### **Can a pupil regain excepted status?**

No. If an excepted pupil loses this status they cannot revert to excepted status at a later date.

### **Does the class size limit apply to mixed nursery/Reception or Year 2/Year 3 classes?**

Sometimes:-

- If there is a mixed class comprising Nursery and Reception pupils where Reception pupils form the majority of the class the 30 pupil limit applies and must not be breached.
- If there is a mixed class comprising Nursery and Reception pupils, where Nursery pupils form the majority of the class at all sessions the 30 pupil limit does not apply.
- If there is a mixed class comprising Nursery and Reception pupils where there are an equal number of pupils from each cohort the 30 pupil limit will not apply.

### **How are infant class sizes monitored?**

The information supplied by the school in the January PLASC data collection is sent to the local authority. One of the things the data collection reports is the number of pupils registered in a class and how many school teachers there are for the class. The data also shows the number and type of exceptions in each class; if the teacher pupil ratio is higher than 1:30 with no exceptions recorded these classes will show as breaches.

### **How is the data sent to the Welsh Government?**

The PLASC return will be sent to the Welsh Government via the local authority and the secure DEWI system. The LA must ensure that they have approved the admission of any child as a permitted exception, and have checked the position

regarding other schools within a reasonable distance where this is part of the description for the criteria.

## **APPEALS**

**When would we offer an appeal to an unsuccessful applicant?** If a pupil is unsuccessful in obtaining a place in their preferred school they must be offered the opportunity to appeal against the decision. The letter informing the parents that their application has been unsuccessful should include the reason that their appeal was unsuccessful and the action they should take to lodge an appeal.

### **Who Can Attend an Appeal Hearing?**

Appeals panels must allow the appellant to attend the appeal hearing and have the opportunity to make oral representation and to clarify or supplement their written appeal. The appellant can invite a friend or relative to support them. Some appellants choose to have legal representation for the hearing and this is permissible.

### **Can the Headteacher of the school attend the appeal hearing?**

It is unnecessary for the Headteacher or representative of the relevant school to be in attendance. The local authority will have someone to present their case for refusing a place and answer any questions posed by the panel and appellant.

### **In what way are infant class size appeals different?**

There are only a few cases where infant class size appeals made by parents may be upheld.

These are:

- The admission arrangements did not comply with the law and the child would have been offered a place if they had been.
- There was a fault with applying the arrangements in the case of the child.
- The decision not to offer a place was not a reasonable one. Unreasonable in this case means wholly irrational.

### **What if the appellant disagrees with the decision?**

The decision of the appeal panel is final and can only be overturned by the courts where either the appellant or the admission authority is successful in applying for Judicial Review of that decision.

### Definition of a 'school teacher' for infant class-size purposes

1. Schools will meet the infant class size requirements if an infant group of no more than 30 is taught by a 'school teacher'<sup>4</sup>. School teachers include:
  - Head teachers
  - Those who met the requirements for receiving written notification that they were qualified teachers under previous qualifications regulations
  - Registered teachers
  - Persons successfully undertaking initial teacher training in Wales
  - Overseas trained teachers, European Economic Area and Switzerland
  - Staff on an employment-based teacher training scheme in Wales
  - Teachers from Scotland and Northern Ireland
  - Persons qualifying from the States of Guernsey
  - Persons qualifying in England who meet the specified recognition requirements; not all categories of people qualifying in England are recognised as qualified teachers in Wales.
2. 'School teachers' **do not** include teaching assistants, higher level teaching assistants or other support staff.

Further detail on who may carry out teaching work in a maintained school or non maintained special school can be found in the Welsh Government Information document '*Teaching and Teaching Qualifications*' (122/2013).

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<sup>4</sup> Defined by section 122 of the Education Act 2002 and the Education (School Teachers' Prescribed Qualifications, etc) Order 2003 which was made under that section