

School Admissions Code, 2021

<https://www.gov.uk/government/publications/school-admissions-code--2>

The DfE announced in May that a new School Admissions Code is scheduled to come into effect on 1 September 2021 (subject to parliamentary approval over the next two months). This follows a consultation on the draft new code which took place last year. The DfE have set out in detail the response to the consultation and any amendments that have been made to the draft code:

<https://www.gov.uk/government/consultations/changes-to-the-school-admissions-code--4>

The DfE has stated that the new Code seeks to improve support for the in-year admission of vulnerable children. Changes include introducing more detail on the process for managing in-year admissions; changes to Fair Access; giving children adopted from state care outside of England equal admissions priority as children who were previously looked after in England; and clarification of which address to use for the admission of service or crown servant children. The Code also includes a definition of challenging behaviour and further minor clarification changes.

Colleagues who have responsibility for setting admission arrangements are encouraged to read the Code in full. Some of the key paragraphs are highlighted below:

- **paragraphs 1.2 to 1.4. Published Admission Number.** Details the consultation process for an increase or decrease in PAN. This section also clarifies that a school's published admission number (PAN) only applies to the usual point of entry in a school (reception, Year 7 and Year 12). For other year groups, the AA will need to determine whether there are places or whether admission beyond a certain point would prejudice the provision of efficient education/use of resources, that is, cause practical problems in delivering appropriate education to existing pupils. For the majority of cases, the PAN set at the point of entry will continue to be the relevant benchmark in relation to admissions. Where though, an "operational capacity" has been set for a year group and this is different to the PAN, the AA must formally record this and evidence why this decision has been made (reduced accommodation/financial pressures etc). Please make sure the LA is advised of this.
- **Paragraphs 1.49 to 1.53** – a reminder that for own AA schools, the determination of admission arrangements, including PAN(s), on or before 28 February must be recorded in the minutes of the Trust/Governing Body meeting at which this occurred. The admission arrangements must be published on the school's website on or before 15 March and also sent to the LA.

- **Paragraph 1.7** – the definition of previously looked after children has been expanded. From 1 September 2021, in addition to the existing LAC/previously LAC children, highest priority must also be given to children who appear to have been in state care outside of England but were then adopted. State care is defined as being in the care of public authorities, religious authorities or other organisations that act in the public benefit and could encompass a wide range of institutions. Non statutory guidance will be provided by the DfE. ***This addition to the Code will require an in-year variation to admission arrangements. All own AA schools will need to do this. Please see the document “Internationally Adopted Previously Looked After Children – IAPLAC” for further information.***
- **Paragraph 1.9** – a reminder that although AA are able to formulate their own admission arrangements, there is a long list of things AA must not do, for example, interview children or parents or request a financial contribution as any part of the admissions process. This paragraph is a **“must not a should”**.
- **Paragraph 2.4** – clarifies again that additional priority must not be given solely on the completion of a supplementary information form (SIF). An application must still be processed even if a SIF is not submitted.
- **Paragraph 2.7** - for own AA schools, where it is not possible for decisions on applications to be made at a face to face meeting of the trust Board/Governing Body/Admission Committee, this can take place 'virtually' if the individuals are 'present' There is also now an express requirement for admission authorities to keep a clear record of decisions made on applications, including in-year applications. This will ensure there are no unreasonable delays in decision making on admissions given the new timeframe for determining the outcome of in year applications.
- **Paragraph 2.21** – applications in relation to children of UK service personnel and crown servants must not be refused/not processed because the family doesn't have an address/live in the area, as long as an official letter is provided with their relocation date. Their intended address must be used to apply the oversubscription criteria, where the parents provide *“some evidence”* of this (ie this does not have to be confirmed in an official letter). Alternatively, the parents can request that their unit or quartering address is used.
- **Paragraphs 2.23 to 2.31 In-Year Arrangements** – the 2021 Code clarifies that parents must not be told they cannot make an application for a particular school and can make an in-year application at any time. All applications must be processed and if refused, parents must be given their statutory right of appeal. As well as processing applications for community schools, the LA can

co-ordinate on behalf of own AA schools. Own AA must advise the LA that they want to be part of the coordinated approach by 31.10.21 for this year and by 31 August in all subsequent years. Further information will be provided to AA schools.

- LAs will be required to provide information to parents about available places in all schools in their area. All schools will be required to provide the LA with their information within two days of a request.
- Parents should be advised of the outcome of their application within 10 school days but where this timescale cannot be met, notification must be made within 15 school days. The expectation is that admission should follow as soon as possible after an offer of a place.
- Where an AA manages its own in-year admissions, it must notify the local authority of every application and its outcome as soon as is reasonably practical.
- Schools cannot refuse to offer a place on the grounds that the application was late, the child is not of the designated faith, the children followed a different curriculum or information has not been received from the previous school.
- **Paragraphs 3.8.to 3.13** – twice excluded/challenging behaviour

The 2021 Code has a definition of challenging behaviour:

"where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment."

The 2021 Code reminds that a child with challenging behaviour may be disabled as defined by the *Equality Act 2010*, and that the exception relating to those having a tendency to physically abuse others does not apply where it arises from the disability.

- In relation to in year applications, AA can refuse to admit if they have *"good reason to believe that the child may display challenging behaviour"*. In these cases, the expectation is that the child would be considered under the Fair Access Protocol. The Code clarifies that this should **only** happen where the school concerned has *"a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education"*

or the efficient use of resources". This does not apply to looked after children, previously looked after children (including IAPLAC) and children with an EHCP.

- Paragraphs 3.14 to 3.22 – Fair Access Protocol. The guidance for Fair Access Protocols has been revised and includes an extensive list of children who are eligible to be considered under Fair Access. The Protocol must be developed with all schools in its area and clarifies that schools must make available a representative who is authorised to make decisions on placing and admitting children. Enfield will be reviewing our FAP and further information will be circulated to schools in relation to the FAP arrangements from September onwards.

Admission of Summer Born Children to School

<https://www.gov.uk/government/publications/summer-born-children-school-admission/statement-for-local-authorities-schools-and-admission-authorities-on-the-admission-of-summer-born-children-to-school-from-gavin-williamson-secretar>

Although the wording in the Code has not changed in relation to the admission of Summer born children to school, Gavin Williamson has issued a statement confirming the Government's commitment to legislate that summer born children can automatically be admitted to a reception class where that is what their parents want and to remain with that cohort throughout their education. We understand that there has not been sufficient time to change the legislation but my (and other colleagues') reading of the statement is we don't really have a choice other than to agree!

Jo Fear

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