**Briefing for schools on changes to the School Admissions Code**

**Introduction**

1. On 13 May 2021, the DfE issued a revised version of the [School admissions code - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/school-admissions-code--2) which, subject to parliamentary procedure, will come in to force on 1 September 2021.
2. This new Code has been issued following a public consultation on a draft Code between 26 June and 26 October 2020.
3. The School Admissions Code imposes mandatory requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of functions relating to admissions.

**Changes to the School Admissions Code**

1. The main purpose of the changes to the Code is to improve support for the in-year admission of vulnerable children.
2. The changes include introducing more detail on the process for managing in-year admissions; changes to improve the effectiveness of Fair Access Protocols; 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. There are also further minor clarification changes.
3. A summary of all the changes is attached as Appendix 1, with the most significant changes highlighted in yellow.
4. All schools are asked to note these changes.
5. Own admission authority schools and academy trusts are asked to take the following action:
* review admission arrangements for 2021 and 2022 before 1 September 2021, to ensure that children who are adopted from state care outside of England are given top priority alongside looked after children and other previously looked after children (paragraph 1.7 of the Code)
* review the information on their website by 31 October 2021 to ensure it sets out how in year applications will be dealt with from the 1 November 2021 to 31 August 2022. Information to be published must include how parents can apply for a place, a suitable form for parents to complete (where they manage their own in year admissions), supplementary form(s) where necessary. It must also set out when parents will be notified of the outcome and details of their right of appeal. Thereafter this information will need to be updated by 31 August each year for the following school year (paragraph 2.26 of the Code)
* ensure processes are in place to notify the LA of the number of places available within two school days of a request (paragraph 2.27 of the Code)
* where they manage their own in year applications, review their processes (in line with paragraph 2.30 of the Code) to ensure that, from September 2021:
* in year applicants are notified of the outcome of their application within 10 school days, or 15 school days at the latest, setting out the reason for refusal and right of appeal;
* the LA is notified of every application and outcome as soon as is reasonably practicable but within two school days

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**Appendix 1**

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| **Paragraph** | **Change** |
| **In year admissions** |
| 2.23 – 2.31 | Introduction of a dedicated section in the Code setting out a clearer process for managing in-year admissions |
| 2.23 | * Clarification that parents can apply for a place at any school at any time
* Confirmation that there is no requirement for LAs to coordinate in year applications for schools for which they are not the admission authority, but they may coordinate in year applications for any or all own admission authority schools with the agreement of those schools
* Introduction of a requirement for LAs to publish information on their website to explain how in year applications can be made and how they will be dealt with, including setting out which schools they will coordinate applications for and which schools will manage their own in year admissions. In 2021 the LA must publish this information by 31 October 2021 and in all subsequent years it must be published by 31 August at the latest
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| 2.24 | Requirement for own admission authority schools to inform the LA by 1 October 2021 whether they intend to be part of the LA’s in year coordination scheme for the period to 31 August 2022 and in all subsequent years to inform the LA by 1 August at the latest if they intend to be part of the LA’s in year scheme and, by the same date, to provide the LA all the information that it is required to publish on their website |
| 2.25 | Confirmation that:* LAs must provide a suitable form for parents to complete when applying for a place at any school in the area for which they coordinate in year admissions
* Where a LA receives a form for a school which manages its own in year admissions, it must promptly forward the application on
* Own admission authority schools must process forms received by the LA in accordance with their own in year arrangements
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| 2.26 | * Requirement for own admission authority schools to set out on their website by 31 October 2021 how in year applications will be dealt with from the 1 November 2021 to 31 August 2022 and, thereafter, by 31 August at the latest in all subsequent years
* Information to be published by the own admission authority school must include how parents can apply for a place, a suitable form for parents to complete (where they manage their own in year admissions), supplementary form(s) where necessary. It must also set out when parents will be notified of the outcome and details of their right of appeal
* An admission authority, governing body or LA must provide a hard copy of the information about in years on request for those who do not have access to the internet
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| 2.27 | Requirement for own admission authority schools to provide the LA with details of the number of places available whenever this information is requested and no later than two school days of a request, to enable the LA to assist parents seeking a school place |
| 2.28 | Clarification that all maintained schools or academies must offer a place to every child who has applied ‘unless admitting the child would prejudice the efficient provision of education or use of resources. Admission authorities must not refuse to admit a child solely because:* They have applied later than other applicants
* They are not of the faith of the school
* They have followed a different curriculum
* Information has not been received from their previous school
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| 2.29 | Clarification that where an admission authority does not have sufficient places for every child who has applied, they must allocate places on the basis of the oversubscription criteria in their admission arrangements only  |
| 2.29 – footnote 61 | Clarification that the determined admission arrangements are the ones that relate to the admission of pupils in the relevant school year |
| 2.30 | * Clarification that parents must not be refused the opportunity to make an application or be told that they can only be placed on a waiting list rather than make a formal application.
* Introduction of a requirement that parents **should** be notified of the outcome of their application in writing within 10 school days, but that they **must** be notified in writing within 15 school days
* Where an application is refused the admission authority must set out the reason for the refusal and information on the right of appeal
* Where an own admission authority school manages its own in year applications it must notify the LA of every application and outcome as soon as is reasonably practicable but should aim to be within two days to allow the LA to keep up to date on the availability of places and to ensure they are aware of any children who may not have a place
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| 2.31 | Requirement that arrangements should be made for the child to start school as soon as possible, particularly where the child is out of school |
| **Challenging behaviour** |
| 3.8 | Confirmation that the twice excluded rule that allows an admission authority to refuse admission does not apply to children whose permanent exclusion has been considered by a review panel and the review panel has decided to quash a decision not to reinstate the child following the exclusion |
| 3.9 | Clarification that admission authorities must not refuse admission on behavioural grounds **in the normal admissions round or at any point in the normal year of entry**, unless paragraph 3.8 applies (the child has been permanently excluded from two or more schools and the last exclusion was within the last two years) |
| 3.10 | Confirmation that where an admission authority does not want to admit a child **who has applied in year for a year group that is not the normal point of entry**, because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child to the Fair Access Protocol  |
| 3.10 – Footnote 76 | Introduction of the following definition of behaviour that can be described as challenging:* 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.

The Code sets out that the DfE 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 |
| 3.10 – Footnote 77 | A reminder to admission authorities of their duties under the Equality Act 2010 and that children with challenging behaviour may also be disabled as defined in this Act. The Code reminds admission authorities that they must consider their duties under this Act and provides a link to Case law about the implications of the Act when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability  |
| 3.10 – Footnote 78 | Confirmation that the provision within paragraph 1.9(g) of the Code to not take account of reports from previous schools about past behaviour, attendance, attitude or achievement, does not apply where an admission authority takes account of past behaviour as evidence for concerns about challenging behaviour, solely for the purpose of making a decision on whether it would be appropriate to refuse admission as permitted in paragraph 3.10  |
| 3.11 | Clarification that an admission authority should only rely on the provision in paragraph 3.10 if it has a 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 |
| 3.12 | Confirmation that provision in paragraph 3.10 cannot be used to refuse admission to looked after children, previously looked after children and children who have an EHCP that names the school |
| **Fair Access Protocols** |
| 3.14 – 3.22 | Introduction of a dedicated section in the Code on Fair Access Protocols  |
| 3.14 | Confirmation that each LA must have a Fair Access Protocols to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible  |
| 3.15 | Requirement for the Protocol to be consulted upon and developed in partnership with all schools in its area, and that once agreed by the majority of schools, all admission authorities must participate in it. This includes making available a representative who is authorised to participate in discussions, making decisions on placing children through the Protocol and admitting pupils when asked to do so even when the school is full.  |
| 3.15 | Requirement for LAs to provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place |
| 3.15 – footnote 79 | Confirmation that decisions about admitting children under the Protocol can be made by one individual in an admission authority provided that suitable authority has been delegated to that individual and that this process complies with relevant governance requirements  |
| 3.16 | Requirement for the Protocol to set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met  |
| 3.17 | Requirement that the Fair Access Protocol may only be used to place specific categories of vulnerable children, where they are having ‘difficulty in securing a school place in-year’, and it can be ‘demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures’. Footnote 80 confirms that this might be where an application has been made to at least one school and this has been refused, or the LA has confirmed that there are no places available at any school within a reasonable distance. |
| 3.17 | A restriction on the categories of children who may be admitted via the Fair Access Protocol, to include the following new categories which were not listed or have changed from the previous Code:* children subject to a Child in Need or a Child Protection Plan or those who have had such a plan within 12 months of being referred to the Protocol (Footnote 81 provides more information on Child in Need and Child Protection Plans)
* children living in a refuge or in other Relevant Accommodation at the point of being referred
* children in formal kinship care arrangements (Footnote 82 provides more information on the evidence that would be required)
* children who have been refused a school place on the grounds of challenging behaviour in referred to the Protocol in accordance with paragraph 3.10
* children for whom a place has not been sought, due to exceptional circumstances (Footnote 83 clarifies that it is for the LA to decide whether a child qualifies)
* children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance (not including where a place has been offered but not accepted)
* previously looked after children for whom the LA has been unable to promptly secure a school place (Footnote 84 provides more information on the placement of previously looked after children including the expectation for admission authorities to cooperate and for LAs to consider swift use of their powers under direction or referral to the Secretary of State)
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| 3.18 | Confirmation that eligibility for the Fair Access Protocol does not limit a parent’s right to make an in-year application for any school. These applications must be processed and must not be refused on the basis that they may be eligible to be placed via the Protocol. The parent will continue to have the right of appeal |
| 3.19 | Confirmation that whilst there is no duty to comply with parental preference when an application is being considered under the Fair Access Protocol, the parents views should be taken into account  |
| 3.20 | Confirmation that the Protocol should seek to place a child in a school appropriate to any particular needs they may have  |
| 3.21 | Requirement for a child to be placed within 20 school days under the FAP and for arrangements to be made for the child to start at the school as soon as possible  |
| 3.22 | Confirmation that, in the event of the majority of schools in the area no longer supporting the principles and approach of the FAP, they should initiate a review with the LA and that the FAP should set out how such a review can be initiated |
| **Children who have been adopted from care outside of England** |
| 1.7 | * Children who appear (to the admission authority) to have been in state care outside of England and ceased to be in care as a result of being adopted (definition included in footnote 15) must now be given the highest priority in oversubscription criteria, alongside looked after children and previously looked after children; and
* To confirm that all references to previously looked after children in the Code now also include those children who appear to have been in state care outside of England and ceased to be in care as a result of being adopted
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| 2.5 | Confirmation that admission authorities may ask for evidence that demonstrates a child was in state care outside of England prior to being adopted |
| **Children of UK service personnel and crown servants** |
| 2.21(a) | Confirmation that admission authorities must not refuse to process an application and must not refuse a place solely because the family do not yet have an intended address or do not yet live in the area |
| 2.21(b) | Requirement for admission authorities to use the address at which a service child or child of a crown servant will live, as long as the parents provide some evidence of the intended address; or to use a Unit or quartering address as the child’s home address where a parent requests this |
| **Other changes** |
| 2 | Confirmation that the Code will come in to force on 1 September 2021 (subject to Parliamentary approval) |
| 10 | The deadline for complying with a decision of the Schools Adjudicator is now stipulated to be 2 months or 28 February, whichever is sooner, unless an alternative timescale is specified by the Adjudicator  |
| 15d) – footnote 8 | Clarification that the ‘normal admissions round’ covers applications for admission in a relevant age group which are made in time for the LA to offer a school place on National Offer Day |
| 1.4 | Clarification that the published admission number (PAN) only applies to the relevant age group (the normal year of entry) and that admission authorities may not refuse admission to other age groups on the grounds that they have already reached PAN – they would have to refuse on the basis of prejudice to the efficient education or the efficient use of resources |
| 1.9(d) – footnote 20 | Clarification that, as well as designated grammar schools, school sixth forms may also select by ability by setting academic entry requirements |
| 1.9(e) – footnote 21  | Clarification of what constitutes a parent providing ‘practical or financial support’ to a school  |
| 1.13 | Confirmation that nodal points may be used as a measuring point when measuring home to school distance and that the selection of a nodal point must be clearly explained and made on reasonable grounds |
| 1.17 | Confirmation that it is the responsibility of the admission authority for selective schools to publish their entry requirements and that these must be set out in their admission arrangements |
| 1.32c) - footnote 29 | Confirmation that admission authorities are not required to inform parents of the outcome of banding tests (as opposed to other forms of selection test) before the closing date for school applications |
| 1.40 | Confirmation that admission authorities must specify in their admission arrangements how priority will be applied to children of staff, such as which groups of staff it will be applied to |
| 1.43 – footnote 36 | Clarification that overnight board and lodging must be provided ‘by’ the school, rather than ‘at’ the school in order to meet the definition of a boarding place |
| 1.49 | Confirmation that the PAN forms a part of an admission authority’s determined admission arrangements |
| 1.49 – footnote 42 | Clarification that determination of admission arrangements is the point at which they are formally agreed and that the decision should be recorded in the minutes of the meeting at which it is made |
| 1.50 | Confirmation that the deadline for admission authorities to publish their determined admission arrangements on their website is 15 March and that they must remain there for the whole offer year  |
| 1.50 – footnote 45 | Confirmation that the governing body of a community or voluntary controlled school must also publish details of the determined admission arrangements for the school on their website  |
| 1.54 | Requirement for LAs to update their composite prospectus and website where a new school opens during the offer year |
| Section 2 | Heading of first section amended to apply only to those applying for places ‘in the normal admissions round’  |
| 2.4 | Confirmation that admission authorities cannot give applicants additional priority solely on the basis that the applicant has completed a supplementary information form |
| 2.7 | Confirmation that admission authorities must keep a clear record of any decisions on applications, including in year |
| 2.7 – footnote 51 | Confirmation that, where it is not possible to convene a face to face meeting, admission authorities can make decisions virtually provided members are present and that processes comply with relevant governance requirements  |
| 2.15 – footnote 52 | Confirmation that designated faith schools must treat looked after children and previously looked after children on their waiting list in line with paragraph 1.37, which permits them to prioritise LAC and PLAC children of faith ahead of those with no faith  |
| 2.22 | Clarification that LAs are required to co-ordinate late applications as well as on-time applications for the normal admissions round and that all admission authorities must participate in coordination for on time and late applications |
| 2.22 – footnote 58  | Clarification that late applications are applications for entry in a relevant age group which are submitted before the first day of term in the admission year but have not been made on time to enable the LA to offer a place on National Offer Day  |
| 2.32 – footnote 63 | Clarification that for looked after children who have been refused a place, it may be more appropriate for a LA to use the powers of direction to secure a place than to submit an appeal |
| 3.30 | Requirement from 2022 for LAs to submit their Local Authority report to the Schools Adjudicator by 31 October (currently 30 June)  |
| Appendix – paragraph 11 and footnote 90 | Inclusion of a note outlining that admission authorities may need to take into account exceptional circumstances due to case law |
| Glossary | Introduction of definitions on:* In-year applications
* Late applications
* Nodal Points
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