School Admissions Code 2021

The **Draft New Code** has been laid before parliament and should be made at the beginning of 2021. The New Code is then scheduled to come into force on 1 September 2021. The requirement to have provision for ‘looked after children’ from abroad will need to be in your admission criteria from 1 September 2021.(see attached briefing note)

**Additions to note - identified in italics:**

**page 9, section 1.4, Published Admission Number (PAN**) (new final 3 sentences)

*The PAN only applies to the relevant age group. This means that admission authorities may not refuse admission to other age groups on the grounds that they have already reached their PAN. They may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources.*

 **page 10, section 1.7, Oversubscription criteria**

All schools must have oversubscription criteria for each ‘relevant age group’ and the highest priority must be given, unless otherwise provided in this Code, to looked after children15 and all previously looked after children, *including those children who appear (to the admission authority) to have been in state care outside of England* and ceased to be in state care as a result of being adopted16. Previously looked after children are children who were looked after but ceased to be so because they were adopted17 (or became subject to a child arrangements order18 or special guardianship order19). All references to previously looked after children in this Code mean such children who were adopted (or subject to child arrangements orders or special guardianship orders) immediately following having been looked after *and those children who appear (to the admission authority) to have been in state care outside of England* and ceased to be in state care as a result of being adopted. Oversubscription criteria must then be applied to all other applicants in the order set out in the arrangements.

 **page 12, section 1.13, distance from the school *or nodal points***1.13 Admission authorities must clearly set out how distance from home to the school *and/or any nodal points* used in the arrangements will be measured. This must include making clear how the ‘home’ address will be determined and the point(s) in the school *or nodal points* from which all distances will be measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent. The selection of a nodal point must be clearly explained and made on reasonable grounds.

**page 13, section 1.17, Selection by ability or aptitude**

1.17 *The admission authorities* for all selective schools must publish the entry requirements for a selective place and the process for such selection *in their admission arrangements.*

**page 17, section 1.40, Children of staff at the school**

*1.40 Admissions authorities* ***must*** *specify in their admission arrangements how this priority will be applied, for example, which groups of staff it will apply to.*

**page 20, section 1.54, Composite prospectuses**

1.54 Local authorities **must** publish online - with hard copies available for those who do not have access to the internet - a composite prospectus for parents by **12 September**49 in the offer year, which contains the admission arrangements and any supplementary information forms for each of the state-funded schools in the local authority area to which parents can apply (i.e. all schools including Academies). They **must** ensure that this information is kept up to date throughout the period in which it is possible for parents to apply for a place for their child*, including updating it with information about any new schools which open in their area during the offer year*. They **must** ensure the prospectus is written in a way that makes it clear and accessible to all parents.

**page 21, section 2.4, Applying for places in the normal admissions round**

2.4 In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. *Places must be allocated on the basis of the oversubscription criteria only. An applicant must not be given additional priority solely on the basis of having completed a supplementary form.* Admission authorities must not ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:

**page 22, section 2.7, Allocating places**

2.7 Admission authorities must allocate places on the basis of their determined admission arrangements only. A decision to offer or refuse admission must not be made by one individual in an admission authority. Where the school is its own admission authority the whole governing body, or an admissions committee established by the governing body, must make such decisions. *The admission authority must keep a clear record of any decisions on applications, including in-year applications.*

 ***page 23, section 2.12, Offering a place***

*2.12 Where schools are oversubscribed, admission authorities must rank applications in accordance with their determined arrangements. The qualifying scheme must ensure that:*

*a) only one offer per child is made by the local authority;*

*b) for secondary school applications, all offers must be made on the same secondary National Offer Day i.e.1 March or the next working day, and*

*c) for primary school applications, all offers must be made on the same primary National Offer Day i.e. 16 April or the next working day.*

 **page 26, section 2.21, Children of UK service personnel and crown servants**

*2.21 For families of service personnel with a confirmed posting, or crown servants returning from overseas, admission authorities must:*

*a) allocate a place in advance of the family arriving in the area (as long as one is available), provided the application is accompanied by an official letter that declares a relocation date. 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.*

*b) use the address at which the child will live when applying their oversubscription criteria, as long as the parents provide some evidence of their intended address. Admission authorities must use a Unit or quartering address as the child’s home address when considering the application against their oversubscription criteria, where a parent requests this.*

*c) not reserve blocks of places for these children.*

*d) ensure that arrangements in their area support the Government’s commitment to removing disadvantage for service children. Arrangements must be appropriate for the area and be described in the local authority’s composite prospectus.*

**page 27, 28, 29, In-year admissions**

*2.23 A parent can apply for a place for their child at any school, at any time. Local authorities are not required to co-ordinate in-year applications60 for schools for which they are not the admission authority. They may, however, co-ordinate in-year applications for any or all own admission authority schools in their area, with the agreement of the relevant admission authorities. In 2021, local authorities must publish information on their website by 31 October 2021 to explain how in-year applications can be made and how they will be dealt with from 1 November 2021 until 31 August 2022. In all subsequent years, local authorities must publish information on their website* *by 31 August at the latest each year to explain how in-year applications can* *be made and how they will be dealt with from 1 September onwards in that year. This includes setting out which schools they will co-ordinate the applications for and which schools will manage their own in-year admissions. They must also set out contact details for any admission authority that manages its own in-year admissions.*

*2.24 To enable local authorities to do this, in 2021 own admission authority schools must inform the local authority by 1 October whether they intend to be part of the local authority’s in-year co-ordination scheme for the period to 31 August 2022 (where this is offered). In all subsequent years, own admission authorities must inform the local authority by 1 August at the latest each year whether they intend to be part of the local authority’s in-year co-ordination scheme for the following 1 September to 31 August (where this is offered) or whether they will be managing their own in-year admissions. By the same date, for schools that intend to be part of the local authority’s in-year co-ordination for the following academic year, they must also provide the local authority with all the information that the local authority is required to publish on its website, including application forms.*

*2.25 Local authorities must provide a suitable application form (and a supplementary information form where necessary) for parents to complete when applying for a place for their child at a school for which they co-ordinate in-year admissions. Where a local authority receives an in-year application for a school which manages its own in-year admissions, it must promptly forward the application to the relevant admission authority, which must process it in accordance with its own in-year admission arrangements.*

*2.26 In 2021, own admission authorities and governing bodies must set out on the school’s website by 31 October 2021 how in-year applications will be dealt with from the 1 November 2021 until 31 August 2022. In all subsequent years, they must set out by 31 August at the latest each year, on the school’s website how in-year applications will be dealt with from the 1 September until the following 31 August. They must set out how parents can apply for a school place, and, where they manage their own in-year admissions, provide a suitable application form for parents to complete (and a supplementary information form where necessary), and set out when parents will be notified of the outcome of their application and details about the right to appeal. If the admission authority is to be a part of the local authority’s in-year co-ordination* *scheme, it must provide information on where parents can find details of the relevant scheme. An admission authority, governing body or local authority must provide a hard copy of the information about in-year applications on request for those who do not have access to the internet.*

*2.27 Local authorities must, on request, provide information to prospective parents about the places still available in all schools within their area. To enable them to do this, the admission authorities for all schools in the area* *must provide the local authority with details of the number of places available at their schools whenever this information is requested, to assist a parent seeking a school place. Such details should be provided no later than two school days following receipt of a request from the local authority.*

*2.28 With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have places available must offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria, unless admitting the child would prejudice the efficient provision of education or use of resources. For example, admission authorities must not refuse to admit a child solely because:*

*a) they have applied later than other applicants;*

*b) they are not of the faith of the school in the case of a school designated with a religious character;*

*c) they have followed a different curriculum at their previous school; or*

*d) information has not been received from their previous school.*

*2.29 Where an admission authority is dealing with multiple in-year admissions and do not have sufficient places for every child who has applied for one, they must allocate places on the basis of the oversubscription criteria in their determined admission arrangements only. If a waiting list is maintained, it must be maintained in line with paragraph 2.15.*

*2.30 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. Upon receipt of an in-year application, the admission authority, or the local authority if it is co-ordinating the admissions authority’s in-year admissions, should aim to notify the parents of the outcome of their application in writing within 10 school days, but they must be notified in writing within 15 school days62. Where an application is refused, the admission authority must also set out the reason for refusal and information about the right to appeal in accordance with paragraph 2.32. Where an admission authority manages its own in-year admissions, it must also notify the local authority of every application and its outcome as soon as reasonably practicable, but should aim to be within two school days, to allow the local authority to keep up to date figures on the availability of places in the area and to ensure they are aware of any children who may not have a school place.*

*2.31 Where an applicant is offered a school place following an in-year application, and the offer is accepted, arrangements should be made for the child to start school as soon as possible, particularly where the child is out of school.*

**page 31, section 3.6, Variations**

3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements . Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances*. Such proposals must be referred to the Schools Adjudicator (for maintained schools) or the Secretary of State (for academies) for approval, and the appropriate bodies notified*. Where the local authority is the admission authority for a community or voluntary controlled school, it must consult the governing body of the school before making any reference. A variation to increase a school’s PAN is not required to be referred to the Schools Adjudicator.

**page 31, section 3.7, Variations**

3.7 Admission authorities must notify the appropriate bodies of all variations and must display a copy of the full varied admission arrangements on the school’s website or their website *(in the case of a local authority*) until they are replaced by different admission arrangements. Local authorities must display the varied admission arrangements on their website where an admission authority has raised its PAN.

**page 31 and 32, Children who have been permanently excluded twice or display challenging behaviour. The whole section has been revised for clarification.**

*Children who have been permanently excluded twice or display challenging behaviour*

*3.8 Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion75. The twice excluded rule does not apply to the following children:*

*a) children who were below compulsory school age at the time of the permanent exclusion;*

*b) children who have been reinstated following a permanent exclusion (or would have been reinstated had it been practicable to do so);*

*c) children whose permanent exclusion has been considered by a review panel, and the review panel has decided to quash a decision not to reinstate them following the exclusion; and*

*d) children with Education, Health and Care Plans naming the school.*

*3.9 Admission authorities must not refuse to admit a child on behavioural grounds in the normal admissions round or at any point in the normal year of entry, except for where paragraph 3.8 applies.*

*3.10 Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission77 and refer the child to the Fair Access Protocol.*

*3.11 An admission authority should only rely on the provision in paragraph 3.10 if it 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.*

*3.12 The provision in paragraph 3.10 cannot be used to refuse admission to looked after children, previously looked after children; and children who have Education, Health and Care Plans naming the school in question.*

*3.13 Admission authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.*

**page 32, 33, 34, 35, Fair Access Protocol. The whole section has been revised for clarification.**

*Fair Access Protocols*

*3.14 Each local authority must have a Fair Access Protocol 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 The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full79. Local authorities must 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.*

*3.16 No school - including those with places available – should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the Protocol. Fair Access Protocols must also 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 Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place 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 procedures80:*

*a) children either subject to a Child in Need Plan or a Child Protection Plan81 or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;*

*b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;*

*c) children from the criminal justice system;*

*d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;*

*e) children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;*

*f) children who are carers;*

*g) children who are homeless;*

*h) children in formal kinship care arrangements;*

*i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;*

*j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of this Code;*

*k) children for whom a place has not been sought due to exceptional circumstances83;*

*l) 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 of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and*

*m) previously looked after children for whom the local authority has been unable to promptly secure a school place84.*

*3.18 Eligibility for the Fair Access Protocol does not limit a parent’s right to make an in-year application to any school for their child. Admission authorities must process these applications in accordance with their usual in-year admission procedures (as set out in paragraphs 2.23-2.31). They must not refuse to admit such children on the basis that they may be eligible to be placed via the Fair Access Protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair Access Protocol.*

*3.19 There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, but parents’ views should be taken into account.*

*3.20 Fair Access Protocols should seek to place a child in a school that is appropriate to any particular needs they may have. The Fair Access Protocol must not require a school automatically to admit a child via the Fair Access Protocol, in place of a child permanently excluded from the school.*

*3.21 Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via the Fair Access Protocol, arrangements should be made for the child to start at the school as soon as possible.*

*3.22 In the event that the majority of schools in an area can no longer support the principles and approach of their local Fair Access Protocol, they should initiate a review with the local authority. There should be a clear process for how such a review can be initiated within each Fair Access Protocol. The existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted.*