



Archdiocese of Birmingham

**Diocesan Education Service**

# **Revised School Admissions Code**

Guidance to schools on changes and actions/information ahead of the revised Code coming into force from 1<sup>st</sup> September 2021

## Revised School Admissions Code Changes

### General changes

<u>Paragraph of the Code</u>	<u>Change to the Code</u>	<u>Actions that the school must take</u>
1.4	<p>Addition of the wording:  <i>“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.”</i></p>	<p>Schools need to be aware that they can only legally refuse admission due to the class having reached its PAN where the application is for the “relevant age group”, ie the point where children are admitted to the school in the normal round of admissions. This will normally be the Reception class or Year 7, but in Worcestershire, where there is still a middle school system, this will also include admission into Year 5 or Year 9. For applications that are not for the “relevant age group”, ie in-year applications, schools cannot refuse to admit due to the class having reached PAN as the PAN doesn’t count for any class that isn’t the “relevant age group”. You would need to refuse a place due to the class being full and that to admit further children would prejudice the provision of efficient education or efficient use of resources. If the parents then appeal against this decision the school would need to demonstrate the prejudice that would be caused by the admission of further children, eg limited space, overcrowding or any other specific and relevant reason. There should be no mention of a PAN when considering, refusing or providing information for an appeal hearing when dealing with in-year applications.</p>
1.7	<p>Amendment to the terminology regarding looked after and previously looked after children. This is now defined as:  <i>“looked after children and all previously looked after children including those 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.”</i></p> <p>Therefore, children who have been in care outside of England and were then adopted must also be prioritised as being previously looked after from September.</p>	<p>Ensure that Note 3 in the school’s 2021/2022 &amp; 2022/2023 admission policies reads:  <i>“A “looked after child” has the same meaning as in section 22(1) of the Children Act 1989, and means any child who is (a) in the care of the local authority or (b) being provided with accommodation by them in the exercise of their social services functions (eg children with foster parents) at the time of making the application to the school. A “previously looked after child” is a child who immediately moved on from that status after becoming subject to an adoption, child arrangement order or special guardianship order and includes those children who appear to have been in state care outside of England and ceased to be in state case as a result of being adopted.</i></p> <p><i>For the purposes of this policy, a looked after child living with a family where at least one of the carers is Catholic will be considered as Catholic. The carer must forward a copy of their own Catholic Baptismal or Reception certificate directly to the school in order for this priority to be given to the child as failure to do so will result in the looked after child</i></p>

		<i>being ranked as a non-Catholic.”</i>
1.13	<p>New reference to nodal points when using distance from the school.</p> <p>This section states that 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 and that the selection of a nodal point must be clearly explained and made on reasonable grounds.</p>	<p>Ensure that the explanation in your 2021/2022 &amp; 2022/2023 admission policies and all others that are set in the future makes it explicitly clear which points are used to measure the distance from a child’s home address and that those used are reasonable, the reason for using them can be justified and would stand up to scrutiny if challenged.</p>
1.40	<p>New wording regarding prioritising children of staff:  <i>“Admissions authorities <b>must</b> specify in their admission arrangements how this priority will be applied, for example, which groups of staff it will apply to.”</i></p>	<p>If your school prioritises children of staff anywhere within its oversubscription criteria, you need to ensure that in the explanatory note it makes it clear how this will be applied and whether it applies to all staff or only certain groups of staff.</p> <p>Please note that you won’t be able to change the staff that it currently applies to without consulting. You must just change the wording of your 2021/2022 &amp; 2022/2023 policies and policies going forward to make sure it is clear who priority of children of staff applies to.</p>
Footnote 42	<p>A new footnote has been added as follows:  <i>“Determination occurs at the point at which the admission arrangements are formally agreed by the admission authority. This decision should be recorded in the minutes of the meeting at which it is made.”</i></p>	<p>When your school’s policy is formally approved by governors each year then it is at that point that the policy is determined. This point is simply verifying the legal point of determination and reminding schools that that determination should be formally recorded in the governor’s minutes.</p> <p>I would expect this to be happening in all schools anyway, but please ensure that this requirement is noted and met each year.</p>
2.4	<p>New additional wording has been added which relates to the allocation of places during the normal admissions round:  <i>“Places <b>must</b> be allocated on the basis of the oversubscription criteria only. An applicant <b>must not</b> be given additional priority solely on the basis of having completed a supplementary information form.”</i></p>	<p>I am sure that this is already the case in schools anyway, but what this means is that you must ensure that all places are only ever offered strictly in line with the school’s published oversubscription criteria. Schools are not permitted to prioritise an applicant just because they’ve submitted a SIF ahead of someone who hasn’t.</p> <p>For example, if you had two applicants ranked as non-Catholic but one had provided a SIF and the other hadn’t, then you couldn’t prioritise the applicant with the SIF above the one without one. You would treat them both as non-Catholic applicants and rank them as such.</p>
2.5	<p>New additional wording added as follows:  <i>“... Or such evidence that demonstrates a child was in state care outside of England prior to being adopted.”</i></p>	<p>This wording has been added to make it clear that admission authorities can request evidence to verify that a child adopted outside of England was in state care ahead of that adoption being finalised. Admission authorities can accept any evidence that they feel verifies to their satisfaction that a child was previously in care outside of England before being adopted.</p>

2.7	<p>New additional wording regarding allocating places as follows:  <i>“The admission authority <b>must</b> keep a clear record of any decisions on applications, including in-year applications.”</i></p>	<p>Schools need to ensure that there is a record of all applications considered, both at the normal round and in-year applications. All decisions, as they have to be made formally by governors meeting to consider them, should be minuted anyway, but if this is not the case then schools will need to review their processes to ensure that records are clearly kept in line with this requirement.</p>
2.12	<p>New guidance regarding the offering of a place during the normal admissions round. This new point states:  <i>“Where schools are oversubscribed, admission authorities <b>must</b> rank applications in accordance with their determined arrangements. The qualifying scheme <b>must</b> ensure that:</i></p> <ul style="list-style-type: none"> <li><i>a) Only one offer per child is made by the local authority;</i></li> <li><i>b) For secondary school applications, all offers <b>must</b> be made on the same secondary National Offer Day, i.e. <b>1 March or the next working day</b>, and</i></li> <li><i>c) For primary school applications, all offers <b>must</b> be made on the same primary National Offer Day i.e. <b>16 April or the next working day</b>.</i></li> </ul>	<p>This isn’t a change, but is a clarification in the revised Code.  Schools should only be ranking in line with their oversubscription criteria anyway so there should be no action for schools to take in that respect.  And the clarification of one offer only per child and the National Offer Days is for the local authority to action and ensure that it complies with.</p>
Footnote 52	<p>A new footnote has been added as follows:  <i>“Admission authorities for schools designated with a religious character must treat looked after children and previously looked after children on their waiting list in line with the principles set out in paragraph 1.37.”</i></p>	<p>This is a great break through for faith schools and will help schools when pressurised by local authorities to admit a looked after or previously looked after child.  Paragraph 1.37 of the Code is the one that permits faith schools to prioritise children of that faith first followed by others who are not of the faith and in Catholic schools that means that you prioritise Catholic LAC &amp; PLAC first followed by all other Catholic categories then non-Catholic LAC &amp; PLAC followed by all other non-Catholic categories.  It is only in Catholic (and all faith) schools that you are permitted to not have all LAC &amp; PLAC children as the highest priority. However, some local authorities still instruct Catholic schools to admit a non-Catholic LAC or PLAC child even though they have Catholic applicants waiting for a place which would take higher priority.  This new footnote makes it clear that paragraph 1.37 permits you to not admit a non-Catholic LAC or PLAC child ahead of a Catholic child and will help schools in challenging a local authority if they try to insist that you do so.</p>

2.21	<p>A new point has been added regarding dealing with applications for children of UK service personnel and crown servants. In addition to how schools had to previously deal with such applications this wording now states that:</p> <p><i>“admission authorities <b>must</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 <b>must</b> 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.”</i></p>	<p>Schools are required to use a future address as the home address of the child even if the family are not yet physically living there when the applications if for the child of service personnel with a confirmed posting or the child of crown servants returning from overseas.</p>
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<p><b>Paragraphs 2.23 – 2.31 - This is a complete new section that deals solely with how in-year admissions will be dealt with and is, in summary, as detailed below:</b></p>		
<ul style="list-style-type: none"> <li>• <i>Local authorities are not required to co-ordinate in-year admissions for own admission authority schools, but they may with the agreement of the relevant admission authorities.</i></li> <li>• <i>The local authority <b>must</b> publish on their website by 31<sup>st</sup> October 2021 information on how in-year applications can be made and how they will be dealt with from 1<sup>st</sup> November until 31<sup>st</sup> August 2022. However in all subsequent years, the local authority must publish this information by 31<sup>st</sup> August at the latest explaining how in-year applications will be dealt with from 1<sup>st</sup> September onwards in that year. They must detail which schools they will co-ordinate the applications for and which schools will manage their own in-year admissions. They <b>must</b> also set out the contact details for any admission authority that manages its own in-year admissions.</i></li> </ul>	<p>Schools need to be aware of the local authority's responsibility to:</p> <ul style="list-style-type: none"> <li>• Decide whether they will co-ordinate in-year admissions</li> <li>• Publish information for parents on their website about how they go about applying for an in-year place at any school within the local authority area.</li> </ul>	
<p>To enable the local authorities to carry out the above points, <i>“own admission authority schools <b>must</b> inform the local authority by 1<sup>st</sup> October 2021 whether they intend to be part of the local authority's in-year co-ordination scheme for the period to August 2022 (where it is offered). <b>In all subsequent years</b>, own admission authorities <b>must</b> inform the local authority by 1<sup>st</sup> August at the latest each year whether they intend to be part of the local authority's co-ordination scheme (where it is offered).</i></p> <p><i>By the same date, schools <b>must</b> also provide the local authority with all the information that the local authority is required to publish on its website, including application forms.”</i></p>	<p>By 1<sup>st</sup> October of this year, all schools will need to have formally decided whether they wish to be part of the local authorities co-ordinated scheme for in-year admissions for the remainder of the academic year.</p> <p>In all future years that decision will need to be made by 31<sup>st</sup> August.</p> <p>Schools will also need to ensure that what ever information that the local authority needs to publish on its website about how a parent goes about making an in-year application to your school and ensuring that you have provided them with any documents that they need, eg application forms and Supplementary Information Forms.</p>	
<p><i>“Where local authorities receive an application for a school which manages its own in-year admissions, it <b>must</b> promptly forward the application to the relevant admission authority, which <b>must</b> process it in accordance with its own in-year admissions arrangements.”</i></p>	<p>Schools should “promptly” receive applications from the local authority if the school is not part of an in-year co-ordinated scheme so that they can be processed.</p>	
<p><i>“in 2021, own admission authorities and governing bodies <b>must</b> set out on the school's website by 31<sup>st</sup> October 2021 how in-year applications will be dealt with from 1<sup>st</sup> November 2021 until 31<sup>st</sup> August 2022. <b>In all subsequent years</b>, they <b>must</b> set out by <b>31<sup>st</sup> August</b> at the latest each year, on the school's website how in-year applications will be dealt with from <b>1<sup>st</sup> September</b> until the following <b>31<sup>st</sup> August</b>. They <b>must</b> 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 SIF 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 part of the local authority's in-year co-ordination scheme, it <b>must</b> provide information on where parents can find details of the relevant scheme. An admission authority, governing body or local authority <b>must</b> provide a hard copy of the information about in-year applications on request for those who do not have access to the</i></p>	<p>Schools need to ensure that their website has clear and full information on how in-year applications can be made to the school. For the coming year this needs to be done by 31<sup>st</sup> October 2021 but in future years it must be done by 31<sup>st</sup> August.</p> <p>The information on the school's website needs to either:</p> <ul style="list-style-type: none"> <li>• Include an application form and SIF if the school manages its own in-year admissions; or</li> <li>• Signpost the parents to the local authority's in-year co-ordination scheme if the school is part of that co-ordination.</li> </ul>	

<p>internet.”</p>	
<p>“Local authorities <b>must</b>, 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 <b>must</b> 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.”</p>	<p>Schools need to ensure that they maintain accurate current figures for the number on role and the number of places available in each year group of the school so that you can comply with providing the local authority with this information within two school days when requested.</p>
<p>“With the exception of designated grammar schools, all maintained schools and academies, including schools designated with a religious character, that have places available <b>must</b> 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 <b>must not</b> refuse to admit a child solely because:</p> <ul style="list-style-type: none"> <li>a) They have applied later than other applicants;</li> <li>b) They are not of the faith of the school in the case of a school designated with a religious character;</li> <li>c) They have followed a different curriculum at their previous school; or information has not been received from their previous school.”</li> </ul>	<p>Schools need to be aware that where a place is available in a year group and an application is received then it must be offered unless “admitting the child would prejudice the efficient provision of education or use of resources.” You would need to evidence what this prejudice would be if the place was refused. Schools cannot simply choose to not offer a place because they would prefer not to or wish to reserve a place for higher priority applicants that may apply in the future.</p>
<p>“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 <b>must</b> allocate places on the basis of the oversubscription criteria in their determined admission arrangements only. If a waiting list is maintained, it <b>must</b> be maintain in line with paragraph 2.15.”</p>	<p>Where schools receive more in-year applications for a particular group than there are places available for then they must apply the oversubscription criteria and offer as many places that are available to the applicants that are ranked the highest.</p> <p>Paragraph 2.15 is the one that outlines this requirement. Schools should already be doing this so you may not need to make any changes to your processes to meet this requirement.</p>

*“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 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 days. 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 is 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.”*

Schools need to ensure that:

- They have a process in school that is understood and implemented by all key staff to ensure that no parent is refused the right to apply or are told that their child’s name can only be placed on a waiting list. Anyone who wants to make an application is legally entitled to do so even if the year group concerned is already full.
- Where schools are part of in-year co-ordination then the local authority must notify the parents, on behalf of the school, the outcome of the application within 15 school days of receiving it. Schools will therefore need to be able to consider applications quickly enough to provide the local authority with a decision on the application so that the parent receives the outcome notification within the 15 school days.
- Where schools manage their own in-year admissions, they must aim to inform the parents of the outcome in writing within 10 school days, but if they cannot, they **must** inform the parents in writing within 15 school days.
- In order to meet the above two points, schools will need to plan how governors can meet to consider applications in order to meet these timescales. Consideration by governors cannot be done by email but can make use of video or telephone conferencing to consider the application. The process needs to be formally recorded/minuted (in line with paragraph 2.7 as detailed above).
- Section 2.32 states that when a place is refused the notification letter to the parent **must** include the reason why admission was refused; information about the right to appeal; the deadline for lodging an appeal and the contact details for making an appeal. Parents **must** be informed that if they wish to appeal they must set out the appeal in writing. Admission authorities **must not** limit the grounds on which appeals can be made.
- If the school manages its own in-year admissions then you must notify the local authority of every application and its outcome and should aim to do this within two school days.

<p><b>Paragraphs 3.8 – 3.13 - This is a larger section that deals solely with children who have been permanently excluded twice or display challenging behaviour and is, in summary, as detailed below:</b></p>	
<p>3.9 - <i>“Admission authorities <b>must not</b> 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.”</i></p>	<p>Schools have never been permitted to refuse on behavioural grounds in the normal round of admissions, but could do for in-year admissions.</p> <p>However, the new code now forbids schools from refusing on behaviour grounds in the normal admissions round or at any point in that first year of entry unless one of the following applies, i.e. paragraph 3.8:</p> <ul style="list-style-type: none"> <li>a) Children who were below compulsory school age at the time of the permanent exclusion.</li> <li>b) Children who have been reinstated following a permanent exclusion (or would have been reinstated had it been practicable to do so).</li> <li>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.</li> <li>d) Children with an EHCP naming the school</li> </ul>
<p>3.10 - <i>“Where an admission authority receives an in-year application for a year group this 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 admission and refer the child to the Fair Access Protocol.”</i></p>	<p>Schools may refuse an in-year application for behaviour reasons. However parents could still appeal that decision and the school would have to evidence why there is good reason for them to believe that the child may display challenging behaviour.</p> <p>However, schools should also take note of the footnotes as below and paragraph 3.11</p>
<p>Footnote 76 – Definition of challenging behaviour:  <i>“For the purposes of this Code, behaviour can be described as challenging here it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour <b>or</b> it is of such severity, frequency, or duration that is beyond the normal range tat schools can tolerate. We would expect this behaviour to significantly interfere with the pupil’s/other pupil’s education or jeopardise the right of staff and pupils to a safe and orderly environment.”</i></p>	
<p>Footnote 77:  <i>“a child with challenging behaviour may also be disabled as defined in the Equality Act 2010. When considering refusing admission on these grounds, admission authorities must consider their duties under that Act. Admission authorities should also consider the effect of the decision of the <b>Upper Tribunal in C &amp; C v The Governing Body of a School, The Secretary of State for Education (first Interested Party) and The National Autistic Society (Second Interested Party) (SEN) [2018] UKUT 269 (AAC)</b> about he implications of the Equality Act 2010 when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.”</i></p>	

<p>3.11 – <i>“An admission authority should not 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.”</i></p>	<p>So in order to be able to defend a decision to refuse admission due to challenging behaviour, the school would have to demonstrate that they have a high proportion of such children already on roll when compared to other local schools.</p>
<p>3.12 – <i>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.”</i></p>	<p>So you cannot refuse to admit on behaviour grounds if the child is LAC or PLAC or has an EHCP.</p>

<b>Paragraphs 3.14 – 3.22 - This is a revised section that deals solely with the Fair Access Protocol, as detailed below:</b>	
<p>3.15 – <i>“The Protocol <b>must</b> be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of school in its area, all admission authorities <b>must</b> participate in it. Participation includes making available a representative who is authorised to participate in discussions, make decision on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Local authorities <b>must</b> 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.”</i></p> <p>Footnote 79 is new and relates to this point – <i>“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. Admission authorities must ensure this process complies with relevant governance requirements.”</i></p>	<p>Schools must comply with the Fair Access Protocol but for these types of admissions only the governing body can delegate an individual within the admission authority, eg the Head Teacher or Chair of Governors, to make a decision regarding the admission of children referred under the Protocol. This will help to speed up decisions made in relation to potentially difficult to place children, but the LA must provide the school with information about how and when the admission under the Protocol will be discussed.</p>
<p>There have been general changes to the eligibility of children being placed under the Fair Access protocol and Fair Access can only be used to place children who can be under the Protocol where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.</p>	
<p>3.18 – <i>“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 <b>must</b> process these application in accordance with their usual in-year admission procedures. They <b>must not</b> 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.”</i></p>	<p>All in-year applications must be considered in the same way even if the child is also being considered under Fair Access.</p>
<p>3.18 – Parent’s view should be taken into account when Fair Access Protocol admissions are considered.</p>	
<p>3.20 – <i>“Fair Access Protocols should seek to place a child in a school that is appropriate to any particular needs that they may have.”</i></p>	
<p>3.21 – <i>“Where it has been agreed that a child will be considered under the Fair Access Protocol, a school <b>must</b> 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.”</i></p>	<p>The LA must allocate a school to a FAP child within 20 school days and the school must then arrange for that child to be admitted as soon as possible.</p>