

Guidance on Changes to September 2021 Admissions Code

From 1 September 2021, a new admissions code is in place.

The new draft Code and associated regulations were laid before Parliament on 13 May. As neither Houses of Parliament objected to the draft Code within a 40 day period, it can now be brought into force. To do this, the minister has signed an Appointed Day Order, which will bring the Code 2021 and all its provisions into effect from 1 September 2021.

The main purpose of the changes to the Code 2021 is to improve the in-year admission process, in particular for vulnerable children. 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.

A link to the new School Admissions Code 2021 can be found [here](#). Admission authorities should familiarise themselves with the all new provisions of the Code 2021 in order to ensure that they are ready to comply with it when it comes into force.

The DfE have also published two additional pieces of guidance – new guidance to help local authorities and admission authorities process admission applications for [children adopted from state care outside of England](#) and updated guidance around the effective operation of [Fair Access Protocols](#).

In a response to questions raised by admission authorities the DfE have also provided more information (in the annex) on the initial implementation actions required from admission authorities for fair access protocols and admissions priority for children adopted from state care outside England. Admission authorities do, of course, remain responsible for considering what actions they need to take to comply with the Code 2021.

The changes introduced in this new code are:

1. Looked after children

For all schools, the main change is that the over-subscription criterion relating to Previously Looked After children for the highest priority in over-subscription criteria is now extended to include children who appear to the admission authority to have been in state care outside of England and were adopted. This means that all determined admissions arrangements will now require updating to ensure that highest priority in over-subscription criteria is given to this group of children, as part of the Looked -After, Previously Looked After group of children. To ascertain this, admission authorities are permitted to request evidence that demonstrates that the child was in state care outside of England prior to being adopted.

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As this must be the first priority, after children with an EHCP which names the school, in all admission arrangements, it needs to be in your policy from September 1, 2021, and for all subsequent years. Suggested wording and footnote for the code change to include children from outside England is given below.

(1) A 'looked after child' or a child who was previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order* 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. A looked after child is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989).

**An adoption order is an order under the Adoption Act 1976 (see Section 12 adoption orders) and children who were adopted under the Adoption and Children Act 2002 (see Section 46 adoption orders). A 'child arrangements order' is an order settling the arrangements to be made as to the person with whom the child is to live under Section 8 of the Children Act 1989 as amended by Section 14 of the Children and Families Act 2014. Section 14A of the Children Act 1989 defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians).*

2. Children of UK Service Personnel and Crown Servants

The Code has now been amended to provide more flexibility for admission authorities relating to this area. The code now states that for families of service personnel with a confirmed posting, or crown servants returning from overseas, admission authorities **must:**

1. 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 Guidance on September 2021 Admissions Code 1 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

2. 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.

In addition, admission authorities are required to 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.

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3. In-year admissions

Own admission authorities are required to supply the local authority with specified information to enable them to either co-ordinate in-year applications or provide parents with up-to-date relevant information about school place availability.

From 2021, the LA must publish on its website by 31 October 2021 details explaining how in year applications can be made and how they will be dealt with during the period 1 November 2021 – 31 August 2022. In all subsequent years, the local authority must publish this information on its website by 31 August at the latest, to take effect from 1 September.

This information will set out which schools the local authority will co-ordinate the applications for and which schools will manage their own in-year admissions, together with contact details for any school that manages its own in-year admissions.

To enable this to happen in 2021, own admission authorities must inform the local authority whether they intend to be part of the local authority co-ordinated scheme for the period to 31 August 2022 by 1 October 2021, in all subsequent years this information must be provided by 1 August at the latest.

Although schools can request to be part of the LA's in-year admissions co-ordination, there is no requirement in the code for any local authority to provide this service. If it is not offered, own admission authorities will need to deal with in-year admissions for their school(s).

In addition, schools are required to publish on their website by 31 October 2021 how in-year applications will be dealt with, and in all subsequent years by 1 August at the latest. 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 a place is refused. If the admission authority is to be a part of the local authority's in-year coordination scheme, (if offered) it must provide information on where parents can find Guidance on September 2021 Admissions Code 1 details of the relevant scheme. An admission authority or local authority is required to provide a hard copy of the information about in-year applications on request.

Local authorities are required on request to provide information to 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. Such details should be provided no later than two school days following receipt of a request from the local authority.

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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; they must be notified in writing within 15 school days.

Where an application is refused the admission authority must set out the reason for this and also provide details of the right to appeal. Where an admissions authority manages its own in-year admissions it must inform the local authority of every application and its outcome as soon as reasonably practicable; the Code provides that the aim should be to provide this notification within two school days.

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.

4. Fair Access Protocols (FAP)

The new arrangements now in the Admissions Code state that the FAP must be consulted upon and developed in partnership with all schools in its area. Once it 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 full.

The Code makes clear that the Protocol should only be used to place specified groups of children (Paragraph 3.17) 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.

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. Guidance on September 2021 Admissions Code 1

5. Local Authority Reports

Local authorities are now required to produce an annual report on admissions for all the schools in their area for which they co-ordinate admissions. From 2022, it must be published locally and sent to the Schools Adjudicator by 31 October each year covering the prior academic year. The report must cover as a minimum:

- information about how admission arrangements in the area of the local authority serve the interests of looked after children and previously looked after children, children with

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disabilities and children with special educational needs, including any details of where problems have arisen

- an assessment of the effectiveness of Fair Access Protocols including how many children were admitted to each school under the FAP
- any other issues the local authority may wish to include.

As well as updating your admissions policy to incorporate the required changes, the board might want to consider a general review of the admissions arrangements, including whether or not the current over-subscription criteria work for your school and are still relevant. If you have not consulted on your admission arrangements for seven years, you are required by the code to consult this year in the autumn, whether or not you want to make any changes other than those required above, for admissions in September 2023.