



Department  
for Education

# **Admissions priority for children adopted from state care outside of England**

**Guidance for admission authorities  
and local authorities**

**July 2021**

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## Introduction

Looked after children are amongst the most vulnerable in our society. Children who have been looked after and are subsequently adopted are also likely to have experienced abuse or neglect and need more support. Wherever possible, these children should be admitted to the school that best meets their needs.

School admission authorities are required to give looked after children<sup>1</sup> and previously looked after children<sup>2</sup> highest priority<sup>3</sup> in the oversubscription criteria within their admission arrangements.

The definition of previously looked after children includes 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. This document refers to these children as internationally adopted previously looked after children (IAPLAC). This also includes children who were previously looked after in Wales, Scotland and Northern Ireland.

A child is regarded as having been in 'state care outside of England' if they were in the care of or were accommodated by a public authority, a religious organisation, or any other provider of care whose sole or main purpose is to benefit society<sup>4</sup>.

The number of parents applying to schools for places for their children under this criterion is likely to be very small. Many will already have evidence of their child's status in a form that is easily verifiable by admission authorities.

In some cases, providing evidence may be a sensitive and emotive matter for both the parents and child. There are many different types of adoption and there is a wide variety of international state care. Admission authorities may need to consider a range of evidence.

This guidance aims to assist and support admission authorities and others when considering evidence.

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<sup>1</sup> A 'looked after child' is a child who is (a) in the care of a local authority in England, or (b) being provided with accommodation by a local authority in England in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989).

<sup>2</sup> Previously looked after children are children who were looked after but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order).

<sup>3</sup> Schools with a designated religious character may give priority to looked after and previously looked after children of their own faith and then next highest priority to other children of their own faith. They must then give the next highest priority to all looked after and previously looked after children who are not of their own faith.

<sup>4</sup> Section 23ZZA(8) of the Children Act 1989 (inserted by Section 4 of the Children and Social Work Act 2017).

## Who is this publication for?

This non-statutory guidance is for:

- local authorities;
- admission authorities;
- headteachers and school leaders;
- virtual school heads; and
- schools adjudicators.

This guidance is also likely to be of interest to parents of children adopted from state care outside of England.

It should be read alongside:

- School Admissions Code 2021 ('the Code');
- School Standards and Framework Act 1998;
- Children Act 1989;
- Children and Social Work Act 2017; and
- Equality Act 2010.

Admission authorities and local authorities **must** comply with the relevant law, and act in accordance with the provisions of the statutory School Admissions Code 2021, which sets out the mandatory requirements on local authorities and admission authorities when considering applications for school admissions.

This guidance is being published in July 2021. It provides guidance on processing admission applications of IAPLAC as required in the School Admissions Code 2021, which will come into force on 1 September 2021. This guidance is being published in advance of this date to help local authorities and admission authorities prepare for the provisions coming into force on 1 September 2021. The guidance will apply from 1 September 2021.

## Key points

- When applying oversubscription criteria, IAPLAC must be treated in the same way as children previously looked after in England (PLAC).
- Responsibility for determining whether a child is eligible for IAPLAC priority rests with the admission authority. If an admission authority is in any doubt about whether evidence provided by a parent is acceptable, we recommend they request advice from their virtual school head (VSH)<sup>5</sup>.
- Where an IAPLAC child has previously been in an education or early years setting, it is possible a VSH will already know about them. Where the child has previously been in an education or early years setting elsewhere, this could be the VSH for another area. Local authorities have a duty to promote the educational achievement of previously looked after children<sup>6</sup>. If a VSH has been notified about a particular child they may have already determined that the child is an IAPLAC (for example, by reviewing evidence provided by the parent). If this is the case, we would not expect an admission authority to require documentary evidence from the parent. Admission authorities and VSHs should work together, as far as possible, to achieve consistency in relation to decisions about the same child.
- Where an admission authority requests evidence from a parent about their child's IAPLAC status, it is the parent's responsibility to provide this. Where the only evidence available is not in English, it would be reasonable for the admission authority to require a translated version from the parent. This can be a sensitive issue and documentation may be difficult for parents to obtain. It is important that admission authorities are supportive and provide help and advice where appropriate.
- Some countries will have no official state care and the child will have been looked after by another provider of care, for example, a religious or charitable organisation. Different countries will have different systems of registering or recording adoptions. In some cases very little formal documentation may exist, so admission authorities may need to be flexible and pragmatic in their approach. The admission authority should make clear the process by which the evidence will be assessed.
- Evidence of IAPLAC status must only be requested for the purpose of applying the oversubscription criteria and for no other reason.

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<sup>5</sup> A virtual school head is an officer employed by the local authority, or where local authorities agree to collaborate or share the role, another local authority in England, as required under the Children and Families Act 2014.

<sup>6</sup> Section 23ZZA of the Children Act 1989.

## The admissions process

The process for applying for a school place is the same for all parents, including the parents of IAPLAC.

Local authorities must provide advice and assistance to all parents when they are deciding which schools to apply for<sup>7</sup>.

### The normal admissions round<sup>8</sup>

Local authorities must provide a common application form (CAF) that enables parents to express preferences for the schools they wish their child to attend. The CAF should include a section for parents to declare whether their child is an IAPLAC. Local authorities should explain how parents should provide evidence of this. We recommend that the CAF asks parents if a local authority or VSH has previously had any involvement with the child and asks them to provide a relevant contact, if possible.

When ranking their applicants against the oversubscription criteria, admission authorities need to decide whether the child is eligible for IAPLAC priority. This should be done as quickly as possible.

### In-year admissions<sup>9</sup>

Parents apply either directly to the school, or (where the local authority co-ordinates in-year admissions) to the local authority. Either the school or local authority must provide a suitable application form. This should include a section for parents to declare whether their child is an IAPLAC. We recommend that the application form should ask if a local authority or VSH has previously had any involvement with the child and asks them to provide a relevant contact, if possible. The form should state that it may be necessary for the admission authority to request evidence of IAPLAC status from the parents.

After receipt of an in-year application, the admission authority should aim to notify the parent of the outcome of their application in writing within 10 school days but parents **must** be notified in writing within 15 school days.

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<sup>7</sup> Section 86(1) of the School Standards and Framework Act 1998.

<sup>8</sup> The 'normal admissions round' covers applications for admission in a 'relevant age group' which are made in time for the local authority to offer a school place on National Offer Day. (The 'relevant age group' is the age group at which pupils are or will normally be admitted to the school, for example reception, year 7 and year 12 where the school admits external applicants to the sixth form).

<sup>9</sup> An in-year application is for the admission of a child to a relevant age group but it is submitted on or after the first day of the first term of the admission year, or if it is for the admission of a child to an age group other than a relevant age group.

If a place is available, the child should be admitted. There is no need for the admission authority to request evidence of IAPLAC status, as there is no need to apply the oversubscription criteria. Arrangements should be made for the child to start school as soon as possible, particularly where the child is out of school.

It is also unnecessary to determine IAPLAC status where a child has an education, health and care plan or is now looked after or was previously looked after within the English system.

Evidence of IAPLAC status may be required if in-year applications for more than one child are being processed at the same time (and there are not enough places for them all), or if no place is available but the parent wishes the child to be placed on a waiting list. The admission authority should request any necessary evidence and decide whether the child is eligible for IAPLAC priority as quickly as possible.

## Waiting lists and appeals

For both the normal admissions round and in-year, where a place is refused, the child may be placed on a waiting list, if the school maintains one. Waiting lists must be ranked in line with oversubscription criteria.

Parents refused a place for which they have applied (either in the normal round or in-year) also have the right of appeal to an independent appeals panel. Parents should be informed of this right and given information on how to appeal.

## Fair Access Protocols

Each local authority **must** have a Fair Access Protocol (FAP) 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 (for more information, see the [non-statutory guidance on Fair Access Protocols](#)).

Previously looked after children (including those who have been identified as IAPLAC) can be referred to the FAP. This route can only be used to place a child where the parent has been unable to secure a place for their child at any suitable school within a reasonable distance.

There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the FAP, but parents' views should be taken into account.

## Requesting and assessing evidence

Where an admission authority receives an application from a parent who declares that their child is an IAPLAC, the admission authority should consider whether that child meets the definition of IAPLAC set out in paragraph 1.7 of the Code. The child must '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'. This means that:

- the child must have been adopted; **and**
- the child must have previously been in state care outside of England (in the care of or accommodated by a public authority, a religious organisation, or any other provider of care whose sole or main purpose is to benefit society) immediately before they were adopted.

Where the admission authority believes a VSH may have already determined that a particular child is an IAPLAC, the admission authority should contact the VSH and request the necessary information. Where a determination has previously been made, we would not expect an admission authority to request or assess documentary evidence from a parent and the child should be treated as an IAPLAC.

In other cases, the admission authority is likely to require evidence from the parent. It is the parent's responsibility to provide the necessary evidence when they are asked for it. When assessing the evidence provided, if the admission authority is in any doubt about whether it is acceptable, we recommend they seek the advice of the VSH. If it is decided that the evidence the parent has provided is not acceptable, the parent should always be given the opportunity to provide more evidence. Admission authorities should be supportive and provide help and advice where possible, for example, by explaining what kind of evidence may be acceptable and where the parent might be able to find it.

Whilst the Code enables admission authorities to request information about a child's looked after or previously looked after status<sup>10</sup>, admission authorities should be mindful of the type of information they are prohibited from requesting from parents as part of the admissions process<sup>11</sup>.

If the admission authority decides the child is not eligible for IAPLAC priority, they should notify the parent as soon as possible, and explain why. When a parent is refused a place at a school, they must be given information about their right of appeal to an independent appeals panel.

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<sup>10</sup>Paragraph 2.5 of the School Admissions Code.

<sup>11</sup>Paragraph 2.4 of the School Admissions Code.



## Evidence that may be accepted for the purpose of determining eligibility

There are many different pathways to adoption, and international state care systems vary and may not exist in some countries. This means the range of evidence that is available may vary considerably.

The information below may be helpful to admission authorities and VSHs when assessing evidence submitted by parents.

### Different kinds of adoption

Some adoptions from abroad would have been processed through the UK courts, or the parent would have applied for an adoption certificate from one of the registrars general in the UK.

The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption is an international agreement to safeguard intercountry adoptions. In each participating country there is a recognised body – the Central Authority – which deals with the adoption process. There is a [list of Central Authorities](#) on the Hague Conference on Private International Law website.

There are other routes to adoption where there would be no involvement from a UK body or a recognised Central Authority. This alone would not mean the adoption is not lawful or that the child does not meet the definition of an IAPLAC for school admissions purposes.

### Documentary evidence of adoption

In all cases parents should have one of these documents:

- a) an adoption order from a UK court;
- b) an adoption certificate issued by the Registrar General for England and Wales, National Records Scotland, or the General Register Office for Northern Ireland;
- c) an Article 23 Certificate – this applies to Hague convention adoptions, and will have been issued by a Central Authority; or
- d) official documentation from the relevant court or state authorities in the country of adoption, confirming that the child was adopted.

In the case of d) it may be difficult for an admission authority or VSH to establish whether the documentation provided is genuine. In these cases it may be appropriate to ask the parent for further information, examples may include:

- a certified document obtained from the embassy of the country of origin;

- a letter from an adoption agency; or
- a letter from another agency or organisation that has been involved with the child.

## **Documentary evidence that a child was previously looked after**

To be eligible for IAPLAC priority, the child must appear (to the admission authority) to have been in state care outside of England (in the care of or accommodated by a public authority, a religious organisation, or any other provider of care whose sole or main purpose is to benefit society) and ceased to be in state care as a result of being adopted.

In most cases, evidence will be in the form of a report or letter, which either states that the child was in care or describes the child's pre-adoption circumstances. If the child was looked after by private foster parents, evidence should show that the care was arranged by or authorised by an organisation which meets the definition above. The admission authority should consider the content of the evidence, and the status of the organisation that issued it.

Examples may include:

- an Article 16 Report – this applies to Hague convention adoptions and will have been issued by the Central Authority;
- information provided by an adoption agency, either in the UK or overseas;
- information provided by an organisation that provided care for the child (for example, a charity or religious organisation);
- a report or letter from another agency or organisation that has been involved with the child.

In cases where the admission authority has concerns about whether the information provided is genuine, the admission authority should always seek the advice of the relevant VSH. Parents should always be given support and advice about what kind of evidence may be acceptable, and admission authorities should be flexible and pragmatic.

Where the document required by the admission authority contains information that may be of a sensitive nature, which a parent believes is not relevant to the application, the parent may wish to redact that information. In these cases, we recommend that the admission authority discusses with the parent whether these sections can be redacted without it affecting the application.

## **Children and parents' nationality or immigration status**

When a parent applies for a school place for their IAPLAC child it is not the responsibility of the admission authority to check the child's nationality or immigration status. Admission authorities should approach such cases in the same way they would for any other child.



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