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**Dear Colleagues**

### **New School Admissions Code**

The Government last year consulted on changes to the Schools Admissions Code. Subsequent to that consultation, a draft code was laid before Parliament on 13 May 2021. We have recently been informed that neither houses of Parliament have objected to the draft code and therefore that code can be brought into force. The provisions contained within the code will become effective from 1 September 2021.

The main purpose of the changes to the code 2021 is to improve the in-year admissions process, in particular for vulnerable children. The changes include more detail on the process for managing in-year admissions; changes to improve the effectiveness of In Year Fair Access Protocols; giving children adopted from state care outside of England equal admissions priority as children who were previously looked after in England. The new code will also give more clarity in respect of children of Crown Servants.

To assist all schools attached are the following:

- New School Admissions Code 2021
- Guidance on admission process for children adopted outside of England
- Guidance on Fair Access Protocols

All schools should read the new code and, in particular, the actions and responsibilities contained within this code. All own admission authorities must ensure that their admission policy and oversubscription criteria comply with this new Code. Key areas for your attention are below.

### **In-Year Applications**

The Government has proposed some much-needed changes that supports the area of In-Year Applications. These changes will assist in supporting vulnerable pupils and pupils arriving into a new area. The new code introduces a dedicated section that sets out a clear process for managing in-year admissions which includes:

- Defining appropriate timescales for different stages of the application process
- Requiring both the LA and admission authorities to provide information on in-year applications
- Making the in-year applications process easier for parents to navigate

The New Admissions Code 2021 (The Code) confirms at Para 2.23 a parent can apply for a place for their child at any school, at any time. Local Authorities (LAs) are not required to co-ordinate in-year applications 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.

LAs **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.

To enable local authorities to do this, it confirms at Para 2.24 that 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. **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 year 1 September to 31 August (where this is offered) or whether they will be managing their own in-year admissions. By the same date schools that intend to be part of the local authority's in-year co-ordination for the following academic year **must** also provide the local authority with all the information that the local authority is required to publish on its website, including application forms.

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 which is confirmed at Para 2.26. **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 **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.

As part of the LA's responsibilities Para 2.27, confirms that LAs **must**, on request, provide information to prospective parents about the places still available in all schools within their area. The Code confirms that for the LA to comply, 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 LA.

### **Duty to admit**

It is confirmed at Para 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 (excluding the normal year of entry i.e. Reception, Year 3 and Year 7) . 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.

At Para 2.29 the Code confirms that 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 of the Code.

### **Prompt decision making**

The Code is very clear on assisting parents and ensuring that the admissions process is quick and efficient. The Code confirms 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, Para 2.30. 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 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 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.

### **Right to appeal**

The Code at 2.32 confirms that when an admission authority informs a parent of a decision to refuse their child a place at a school for which they have applied, it **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 their grounds for appeal in writing (63). Admission authorities must not limit the grounds on which appeals can be made.

### **In Year Fair Access**

The Government has made changes to improve the effectiveness of Fair Access Protocols by making clear the following:

- The purpose of the Fair Access Protocol
- Ensuring that only the most vulnerable pupils are supported by the protocol
- Introducing timescales for placement decisions
- Clarifying the provisions relating to the use of Fair Access Protocols for children with challenging behaviour

The Code at para 3.14 confirms that 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. Any changes to the protocol as a result of the changes to the code will be made in preparation for the new academic year.

### **Looked After and Previously Looked After Pupils**

The Government has amended references to previously looked after children in the new code to include children who have been in state care outside of England and have ceased to be in care because of adoption, and children who were adopted immediately following having been looked after in England. The new code also refers in a number of different areas about how looked after children should be treated. Following an application, through the normal admissions process, although there is an expectation that a school would take a looked after child on roll, there is the option of turning down and offering the statutory right of an admissions appeal. Within Para 2.32 it refers to the process and directs you to note 63:

- Where a looked after child has been refused a school place, it is likely to be more appropriate for the local authority looking after the child to use powers of direction set out in paragraphs 3.27 and 3.29 of the Code, than submit an appeal.

Further mention of looked after children is made within para 3.17 (m) which specifically mentions “previously” looked after children for whom the local authority has been unable to promptly secure a school place. Again, we are to note :

- In most cases use of the Fair Access Protocol should be unnecessary for previously looked after children. We would expect the local authority to aim to secure a school place particularly promptly for a previously looked after child and for the admissions authorities to cooperate with this. The local authority may consider swift use of their general powers of direction (under paragraphs 3.26-3.28) or asking the Secretary of state to consider a direction (under paragraph 3.29) to be the most suitable course of action if a school place for a previously looked after child cannot be agreed with an admissions authority promptly.

### **Crown Servants**

The Government has provided clarification on which address to use for the admission of service or crown servant children. This information is confirmed at para 2.21. This para also deals with families of forces personnel.

### **Waiting lists**

The Code at Para 2.15 confirms that each admission authority **must** maintain a clear, fair, and objective waiting list until at least **31 December** of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date their application was received, or their name was added to the list. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol **must** take precedence over those on a waiting list.

### **Conclusion**

Within the Introduction of the Code, it confirms that the purpose of the Code is to ensure that all school places for maintained schools and Academies are allocated and offered in an open and fair way. The introduction confirms that the Code has the force of law and that where the words “Must” or “Must Not” are used these represent a mandatory requirement.

The LA seeks to work with all schools for the benefit of all pupils and hopes that the new code will allow all applications to be treated in a positive and consistent manner that will benefit all

Yours sincerely



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To: All Schools