

School Admissions Code, May 2021 and other Admissions Updates

The new School Admissions Code was laid before Parliament on 13 May and will be implemented from 1 September 2021 for:

- In year admissions for 2021/22
- Primary and secondary admissions processes for September 2022

This briefing note outlines the main changes to the Code and, for own admission authority schools, the actions that **must** be taken.

All schools and academies must vary their arrangements to meet the requirements of the new Code. Amended arrangements for 2021/22 and 2022/23 must be republished on the school website and submitted to HCC (admissions.consultation@hertfordshire.gov.uk) for publication prior to 1 September 2021.

Amendments to the Code and required action

Section 1.7 – Children Previously Looked After from outside England

Within oversubscription criteria, highest priority **must** be given to looked after children, and all previously looked after children, **including those children who appear to have been in state care outside of England and ceased to be in state care as a result of being adopted.**

Draft guidance is with Ministers and the DfE hope to publish it in early July and will include the role of the virtual school head in supporting PLAC.

ACTION:

- All admission authorities must meet and agree to amend their determined arrangements for 2021/22 and 2022/23 before 1 September 2021. This can be undertaken contingent on the new Code being issued.
- Existing CI lists must be checked and reordered, if necessary, in line with requirements of the new Code.

Amended Rule 1 and Rule 2 wording for schools using HCC's definitions is attached.

Section 1.40 – Children of Staff

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

ACTION:

- Admission authorities that give priority to children of staff at the school must ensure that their arrangements include relevant definitions to ensure transparency. Arrangements must be amended prior to 1 September 2021. It is suggested that admission authorities consider defining both:
 - “staff”, for example, are teaching staff and non-teaching staff included? Full and part time? AND
 - “children”, for example, does the child have to be the child of the staff member or will children of partners be included? Does the child have to live permanently with the staff member?

Section 2.21 – Children of UK service personnel and crown servants

Admission authorities **must** use:

- the address at which the child will live when applying their oversubscription criteria, as long as the parent/carer provides some evidence of their intended address.
- a Unit or quartering address as the child's home address when considering the application where a parent/carer requests this.

Sections 2.23-2.31 – In Year Admissions

The requirements for In Year admissions have changed significantly and all schools should carefully read these sections to ensure full awareness of the new Code requirements.

For 2021/22, all admission authorities must publish information on their websites, by 31 October 2021, to explain how In Year applications can be made and how they will be dealt with.

In all subsequent years, all admission authorities must publish this information by 31 August at the latest to explain how IY admissions will be dealt with from 1 September.

ACTION:

Admission authorities must:

- in 2021, inform the LA by 1 October whether they intend to be part of the LA's IY coordinated scheme for the period up to 31 August 2022.
- in all subsequent years, inform the LA by 1 August at the latest whether they intend to be part of the LAs IY coordinated scheme for the next academic year.
- if they intend to be part of the IY coordinated scheme, provide the LA with all relevant information, including application forms, by the same date.
- by 31 October for 2021, set out on the school website how IY applications will be dealt with from 1 November 2021 to 31 August 2022
- by 31 August for 2022/23 onwards, set out on the school website how IY applications will be dealt with from 1 September to 31 August
- explain on the website how parents apply for an IY school place and, if managing their own IY admissions:
 - provide an IY application form and SIF if needed
 - set out when parents will be notified of the outcome of their application
 - provide details of how to appeal
 - provide a hard copy of information if requested
 - notify the LA of every application and its outcome within 2 days
- if part of the LA's coordinated scheme, provide information on where parents can find details of the relevant scheme
- provide the LA with details of the number of places available whenever this information is requested, no later than 2 school days following receipt of the LA request
- allocate places on the basis of the oversubscription criteria in their determined arrangements
- not refuse parents the opportunity to make an application or be told they will be placed on the CI list rather than making a formal application
- keep a clear record of any decisions for IY applications
- aim to inform parents of the outcome of their IY application in writing within 10 days
- inform parents of the outcome of their IY application in writing within 15 school days

Whilst the deadlines above are statutory they are not operationally effective or useful. Parents need to be aware of IY arrangements for the academic year well before 31 August. HCC will not be changing its current operational practice which asks own admission authority schools to confirm

which HCC admissions services they require, including IY coordination, before the end of the preceding academic year. The HCC admissions services you request should reflect those stated in your determined arrangements.

Section 3.8-3.13 – Challenging Behaviour

“Challenging behaviour” has been defined in the new Code (footnote 76) as

- *“behaviour unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil’s/other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment”*
- Children with challenging behaviour may also be disabled (Equality Act 2010) and admission authorities must also consider their duties under that Act.

Section 3.14-3.22 – Fair Access Protocols

These sections of the Code have been updated and amended with the aim of providing further clarity about the Fair Access process:

- The FAP must be consulted upon and developed in partnership with all schools in an agreed area.
- Once agreed by the majority of schools, all admission authorities must participate, including:
 - making available a representative authorised to participate in discussions, make decisions on placing children via the FAP and admitting children via the FAP when the school is full
- LAs must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the FAP will take place.
- FAPs can only include the categories of children outlined in the Code; the following groups have been added:
 - Children subject to a Child in Need Plan or a Child Protection Plan or having had a Plan within 12 months of being referred to the FAP
 - Children living in a refuge or in other relevant accommodation at the point of being referred to the FAP
 - Children in formal kinship care arrangements
- Eligibility for the FAP does not prevent an IY application being made to any school and IY applications must be processed in accordance with the usual IY admission processes, including the right of appeal if refused a place.
- When a child is considered under FAP, a place must be allocated within 20 school days; and once allocated arrangements should be made for the child to start as soon as possible.
- If the majority of schools in an area can’t support the FAP, a review should be initiated with the LA and the review process should be outlined in the FAP. The existing FAP will remain binding until a new one is adopted.

Existing FAP guidance will be revised and the DfE aim to publish this in July.

Other Admissions Updates

- The temporary regulations covering appeals (allowing appeals to be held virtually) are unlikely to be extended beyond 30 September 2021 unless a very strong case is made on Covid grounds. The DfE will be issuing a further monitoring questionnaire in the next couple of weeks.
- Variations to 2022/23 admission arrangements for selective testing or faith practice relating to Covid should be submitted to the OSA/RSC.

- A DfE report on the latest summer born survey was issued on 27 May with a letter to admission authorities from Gavin Williamson, Secretary of State for Education.
<https://www.gov.uk/government/publications/summer-born-children-school-admission>
- DfE guidance on applicants from overseas is being amended to clarify that schools must not ask parents for evidence of right of residence in the UK or recruit children from overseas.
- The Chief Adjudicator's report has been published.
<https://www.gov.uk/government/news/report-of-the-chief-schools-adjudicator-september-2019-to-december-2020>