

DBULLETIN

School Admissions

School admissions is one of the most controversial areas of education policy. The previous Government sought to restrict the freedom of schools to establish their own admissions criteria and there is so far little indication that the Coalition Government has plans to make school admissions any more flexible. This briefing paper looks at the obligations on schools in setting and enforcing admission policies.

School Admissions Code

The School Admissions Code came into force on 10 February 2010 and applies to admissions to all maintained schools. All admission authorities must have regard to the Code. Local authorities are the admission authorities for community and voluntary controlled schools. For foundation schools (including trust schools), voluntary aided schools and academies, governing bodies are the admission authorities. Academy Funding Agreements require academies to adopt arrangements that are consistent with the Code.

Consultation

Admission authorities must consult by 1 March in the determination year (the academic year before offers are made) on the schools' admission arrangements. The consultation period must last for a minimum of eight weeks between 1 November and 1 March. Admission authorities must consult with their local authority, with other admission authorities within their area, parents, the admission forum and any relevant religious authority for faith schools. Admission authorities must determine their admission arrangement by 15 April in the determination year.

Parental Preferences

Parents have a right to express a preference for a place for their child in any maintained school or academy. This, of course, cannot be guaranteed and there are many instances of parents failing to get their first preference for a popular school

and, indeed, in some cases, failing to secure any preference.

Practices and Policies to ensure Fair Admission Arrangements

In drawing up the schools' admission arrangements, admission authorities must ensure that the criteria used to provide the allocation of school places are clear and fair for all groups of children. Admission authorities must ensure that their admission arrangements do not unfairly disadvantage a child from a particular social or racial group or a child with a disability.

Admission authorities must take into account the following:

- Governing bodies must admit a child with a statement of special educational needs that names their school.
- Schools are prohibited from interviewing parents and/or children as a means for deciding whether a child is to be offered a place at a school. This had been used previously in many faith schools as a means of determining the parents and child's commitment to their faith. However, now interviews are only to be used by boarding schools for the purpose of assessing a child for a boarding place.
- The Code prohibits any new selective arrangements but grammar schools and schools with partially selective arrangements are permitted to continue.

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- Tests must not be used by non-selective schools as a means of allocating places unless part of approved aptitude selection or banding arrangements.
- Admissions to a school must not be conditional on parents signing a home school agreement.
- Admission authorities must not use supplementary application forms that ask for any personal details about parents, such as criminal convictions or financial status. Supplementary forms may not ask about parents or children's interests or membership of societies. However, for faith schools admission authorities may use a supplementary form that asks parents about their membership or relationship with the church. It is also acceptable to ask for a reference from a vicar.
- Governing bodies must ensure that the uniform chosen is widely available in high streets and internet suppliers rather than from an expensive sole supplier that may prevent parents on low incomes from applying to the school.
- Admission authorities must not ask for any form of payment or for voluntary contributions as part of the admissions process. Schools may, however, set out their policy on asking for voluntary contributions once the children have been admitted to the school. Schools should make it clear that help may be available for those unable to afford the cost of school trips.

Over-Subscription Criteria

It is essential that schools have criteria to allocate places when over-subscribed that are fair, to prevent any challenges to the schools' admissions policies. All maintained schools (except grammar schools) that have enough places available must offer a place to every child who has applied for one. This includes faith schools and schools that use partial selection by ability or aptitude. It is

good practice to ensure that admission authorities include an effective tie-breaker in their admission arrangements.

Prohibition of Unfair Over-Subscription Criteria

Admission authorities must not:

- Stipulate the type of school previously attended by the child unless these schools are named feeder schools.
- Give priority to children according to the order of schools named as preferences by their parents.
- Give priority according to parents willingness to give practical support to the school.
- Take account of reports from previous schools about a child's past behaviour.
- Take account of the behaviour of other members of a child's family.
- Allocate places to relatives of former pupils of the school.
- Give priority to children whose parents are staff or governors.

Guidelines in Setting Fair Over-Subscription Criteria

- Admission authorities must give highest priority to children in care.
- It is acceptable to give high priority to children where there is a social or medical need, for example, where a child is at risk of being bullied at another school. Admission authorities must give a clear indication of what supporting evidence will be required.
- Random allocation of school places can be a good practice, particularly for urban areas, to widen access to schools for those unable to afford to buy houses near to popular schools.
- Sibling criteria may apply where an older sibling

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is still on the roll when a younger child starts at the school.

- Admission authorities may operate catchment areas as part of their over-subscription criteria but must not exclude particular housing estates in a way that may disadvantage particular groups.
- Faith schools may give higher priority in admissions to children who are members of or practice their faith. The appropriate religious authority should decide how membership or practice is to be demonstrated. The governing bodies of Church of England schools should follow the advice from their local diocesan board.
- Infant classes must not contain more than thirty pupils with a single school teacher. Admission arrangements must make clear to parents that their child's attendance in the nursery class does not guarantee admission to the school.
- There are additional guidelines for secondary schools that provide for the use of named feeder schools but it is set out in the Code that these feeder schools must not include independent schools.
- Banding is used by some admission authorities to ensure that these schools include a proportion of children with different abilities.
- Distance between home and school is often used as a tie-breaker in over-subscription criteria. It is good practice to give priority to children who would have a disproportionately long journey to another school.

Co-ordinated Admission Arrangements

All local authorities are required to co-ordinate admission arrangements for schools within their area. This ensures that every parent of a child who has applied to a maintained school or academy is

sent one offer of a school place. Where a place would be available for a child at more than one school the local authority should ensure that the parent is offered a place at whichever of these schools is the highest preference. Parents who cannot be offered one of their preferred schools must, if there are places available, be offered a place at another school.

Enforcing the Code

The School's Adjudicator may investigate the admission arrangements of any school that he considers does not comply with the mandatory requirements of the Code and may specify modifications. Local authorities, parents, religious authorities and other local schools can refer an objection about admission arrangements to the School's Adjudicator. In the case of academies, the same parties may make representations to the Secretary of State concerning the lawfulness of the admission arrangements and he may determine that there should be modifications.

School Admission Appeals Code

The School Admission Appeals Code came in force on 10 February 2009. Schools must have clear and lawful admission arrangements in place to avoid a successful challenge by parents to an Independent Appeal Panel.

Admission authorities are responsible for arranging Independent Appeal Panels to consider admission appeals. Panels will comprise three or five members. At least one must be a lay member and at least one must have experience of education. Panel members must ensure they have no connection with the school or parties to the hearing.

Conduct of the Hearing

The panel chair has responsibility for the conduct of the hearing. The school will need to provide

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a presenting officer who will present the school's decision not to admit the child.

Notification

If a child is refused admission to a school the admission authority must ensure the parent receives the following information in writing:

- Details of why the application was unsuccessful in light of the published admission arrangements; and
- Information on the right of appeal.

Admission authorities must allow parents at least ten school days from the date of notification that their application was unsuccessful to submit their appeal. Admission authorities must then send written notice of the date of the appeal to the parents at least ten school days in advance of the hearing.

Production of Evidence

The admission authority must supply the clerk to the appeal panel with the following documents at least ten school days before the hearing:

- A written statement summarising how places at the school were allocated and how the admission arrangements apply to the parents application.
- A written statement summarising the reasons for the decision and explaining how admission of an additional child would cause prejudice to the provision of efficient education or efficient use of resources.

The Hearing

The order of proceedings will usually be as follows:

- The case for the admission authority.
- Questions by the parents and panel.
- The case for the parents.

- Questions by the admission authority and the panel.
- Summing up by the admission authority and then summing up by the parents.

Appeal panels must either uphold or reject an appeal. Where there is not unanimous agreement decisions must be reached by a simple majority of votes cast. Where there are equal numbers of votes, the panel chair has a casting vote.

Notification of Decision

The panel must communicate the decision, including the reasons for the decision in writing to the parent and the admission authority. The decision in the letter should ideally be sent within five working days of the hearing.

Reaching Decisions on Appeals

Appeal panels must follow a two stage process for appeals, other than for infant class size prejudice appeals. The first stage involves the panel establishing the facts and considering whether the schools admission arrangements comply with the mandatory requirements of the School Admissions Code and are lawful. The panel must also consider whether the admission arrangements were correctly applied in the child's case, for example, whether an error was made in calculating the distance of the parents' home from the school. The panel then goes on to decide whether prejudice would arise if the child were to be admitted to the school. If prejudice is proved the panel moves on to the second stage.

The second stage involves a balancing exercise. The panel must exercise its discretion to balance the degree of prejudice to the school against the prejudice to the child in not being admitted to their preferred school in deciding whether to admit the child.

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Multiple Appeals

One panel should ideally consider all the appeals for a particular school. If the panel decides that the admission of additional children would result in prejudice, it must consider for each individual case whether the grounds for admission outweigh such prejudice. In the event that several cases outweigh the prejudice to the school but the panel determines that the school could not cope with that number, the panel must then compare all the cases and decide which of them to uphold.

Infant Class Size Appeals

Admission authorities should ensure that information is available to parents on the limited chances of success in an infant class size prejudice appeal. If a child has been refused admission to a school on infant class size prejudice grounds the Appeal panel can only offer a place for a child where it is satisfied that either:

- a child would have been offered a place if the admission arrangements had been properly implemented; or
- the child would have been offered a place if the arrangements had not been contrary to the mandatory provisions in the Code; or
- the decision to refuse admission was not one which as a reasonable admission authority would have made in the circumstances of the case.

In reaching its decision the panel must take into account the circumstances of a particular child and its family and the practical consequences for the school. In order for a panel to determine that the admission authorities' decision to refuse admission was unreasonable they will need to be satisfied that the decision to refuse to admit the child was so unreasonable that it was beyond the range of responses open to a reasonable decision-maker which is a high threshold to overcome.

Enforcement

The Secretary of State has power to consider whether the Appeal panel was correctly constituted. If the school wins the Appeal panel then the decision can only be overturned by the courts if a parent decides to apply for judicial review and is successful.

If you require any further information on school admissions please contact:

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