

## **Changes Introduced in the School Admissions Code and Admissions Appeal Code 2012**

### **1 Introduction**

- 1.1 In the White Paper 'The Importance of Teaching' published in November 2010, Michael Gove MP, Secretary of State for Education, announced a review of the school admissions system to make it 'simpler, fairer and more transparent building on the on the principle of placing the trust back in schools and head teachers'.
- 1.2 Following a review by Ministers, two new 'draft' simplified versions were published for consultation, which commenced on Friday 27 May 2011 and closed on Friday 19 Aug 2011
- 1.3 Changes to associated regulations were also made with the intention that, wherever possible, the Codes would be the single point of reference on admissions accompanied by concise and consistent regulations.

### **2 The Codes and Associated Regulations**

- 2.1 The revised School Admissions Code and School Admission Appeals Code came into force on 1 February 2012.
  - The School Admissions Code (2012)
  - The Admissions Appeals Code (2012)
  - The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012
  - The School Admissions (Appeals Arrangements) (England) Regulations 2012
  - The School Admissions (Infant Class Sizes) (England) Regulations 2012
- 2.2 The Codes are made under Section 84 of the School Standards and Framework Act 1998
- 2.3 The School Admissions Code and associated Regulations apply to admissions arrangements for the 2013/14 academic year and thereafter.
- 2.4 The School Admission Appeals Code and Appeals Regulations 2012 apply to appeals lodged on or after 1 February 2012.

### **3 Application of the Codes**

#### 3.1 The Codes apply to

- Admission authorities of maintained schools as defined in Section 88(1) (a) and (b) of the SSFA 1998
- Governing bodies and local authorities (when not admission authorities)
- Schools Adjudicators
- Admission Appeal Panels.

3.2 Academies Schools (including Free Schools), University Technical Colleges and Studio Schools<sup>1</sup>, are state-funded, non fee-paying independent schools set up under a Funding Agreement between the Secretary of State and the proprietor of an Academy (Academy Trust). Academies are required by their funding agreements to comply with the Code and the law relating to admissions, though the Secretary of State has the power to vary this requirement where there is demonstrable need.

3.3 Admission authorities are responsible for ensuring their admission arrangements<sup>2</sup> are compliant with the Code. Where a school is the admission authority, this responsibility falls to the governing body or Academy Trust.

### **4 Simplifying the Codes**

4.1 There were in total over 130 pages in the 2010 Codes and included in this were over 660 mandatory requirements. The new 2012 Codes have been reduced significantly with the purpose of making them simpler and comprise of a combined total of 65 pages. During consultation it was stated that *'they have been written from an assumption that all schools and admission authorities seek to comply with the Codes'*.

4.2 To achieve simplification, the sections in the 2010 Codes that prescribed what an admission authority 'should' or 'should not' do have been removed. The 2012 Codes offer guidance which, if not followed, admission authorities can be challenged on.

4.3 The Codes continue to impose mandatory requirements, which if not followed, result in unlawful arrangements of practice.

4.4 Regulations are still recognised as a key part of the legislative framework but for simplification, these are included in the 2012 Codes.

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<sup>1</sup> Studio Schools are a new type of government-funded state school for 14-19 year olds of all abilities

<sup>2</sup> The overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered.

## **5 Changes to the Admissions Code – Consultation**

- 5.1 In order to ensure fair admission arrangements, consultation on changes remains a statutory requirement and objections to unfair or unlawful arrangements can still be made.
- 5.2 The 2012 Code introduces an extended role for the Schools Adjudicator to hear objections to admission arrangements of *all* state-funded schools, including those of Academies and Free Schools.
- 5.3 The deadline for objections to be referred to the Schools Adjudicator has been brought forward to 30 June in the determination year – previously 31 July. (Para 1.50)
- 5.4 Objections to unfair arrangements can now be made by anyone (Para 3.3)
- 5.5 Where there are no changes proposed, consultation on admission arrangements must be actioned only once every 7 years and not every 3 years as previously (Para 1.42)
- 5.6 A main change introduced in 2012 Code is the removal of the requirement to consult on changes to published admission numbers (PANS)<sup>3</sup> PANs are still required but the Department for Education (DfE) wants all schools that are ‘popular with parents to be free to increase their PAN, and thereby offer more parents more options for a place’. Therefore, own admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN, however, the local authority (as admission authority) must consult at least the governing body of the community or voluntary controlled school.
- 5.7 Objections can be submitted to the School Adjudicator by community and voluntary controlled schools regarding a *decrease* in the PAN determined by the local authority and the Schools Adjudicator is required to have regard to the strong presumption in favour of an *increase* to the PAN when considering such objections.

## **6 Changes to the Admissions Code – In Year Coordination**

- 6.1 The 2012 Code states that ‘any parent can apply for a place for their child at any time to any school outside the normal admissions round’.
- 6.2 Changes in legislation introduced for September 2010 placed a new requirement on local authorities (LAs) to coordinate all ‘in year’ applications. These are applications received for admission into any year group during the course of the year and which are made outside the normal admissions process. This became mandatory from September 2010. In the 2012 Code,

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<sup>3</sup> The PAN is the number of pupils to be admitted at the normal point of entry for example, the reception class in a primary or the year 7 in a secondary school otherwise known as relevant year group.

this requirement to coordinate has been removed for 2013/2014 academic year and subsequent years. (Para 2.21)

- 6.3 LAs must nevertheless continue to provide an application form for parents, together with information about the places available in its area.

## **7 Changes to the Admissions Code – Oversubscription Criteria and Random Allocation**

- 7.1 Admission authorities are no longer permitted to use random allocation as the principal oversubscription criterion<sup>4</sup>. (Para 1.34) Admission authorities that use any other form of random allocation must set out clearly how this will operate.

## **8 Change to the Admissions Code – Oversubscription Criteria and ‘Looked After/Cared For Children’.**

- 8.1 The mandatory highest priority given to looked after children within the oversubscription criteria has been extended to include ‘previously looked after’<sup>5</sup> (Para 1.7)

## **9 Changes to the Admissions Code – Oversubscription Criteria and Pupil Premium**

- 9.1 Free Schools and Academies may now, where their Funding Agreements permit, give priority in admission arrangements to children eligible for Free School Meals (in future, the Pupil Premium). (Para 1.9(f))

## **10 Changes to the Admissions Code – Oversubscription Criteria and Children of Staff**

- 10.1 Admission authorities are permitted to include children of staff at the school within their oversubscription criteria. (Para 1.39) as follows:

- a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or
- b) the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.

- 10.2 A definition of what constitutes ‘staff’ e.g. teachers, supply teachers or non-teaching staff, including those undertaking tasks such as catering and cleaning must be included to ensure clarity of arrangements.

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<sup>4</sup> The published criteria that an admission authority applies when a school has more applications than places available in order to decide which children will be allocated a place.

<sup>5</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 residence order or special guardianship order).

## **11 Changes to the Admissions Code – Infant Class Size Legislation**

11.1 The law requires that infant classes must not contain more than 30 pupils to a single school teacher. In very limited circumstances, further admissions can be agreed and these are considered as ‘permitted exceptions’. The problem has always been that this is time limited with ‘qualifying measures’ needed by the following year and that no allowance is made to admit children of multiple births.

11.2 Legislation still restricts infant classes to 30 pupils to a single school teacher, but changes introduced in the 2012 Code and Infant Class Size Regulations mean that children will remain an ‘excepted pupil’ for the time they are in an infant class or until the class numbers fall back to the infant class size limit. (Para 2.15)

11.3 In addition, the number of permitted exceptions (Para 2.15) has been extended to include

- children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil
- children of UK service personnel
- previously looked after children (*in addition to current provision for admission of looked after children*)

## **12 Change to the Coordination Regulations**

12.1 For admissions for 2014 and subsequent years, local authorities must include within their coordinated scheme<sup>6</sup> the ‘national offer day’ for primary school places of 16 April. This change brings the primary coordination process in line with the secondary process and is the date on which all English local authorities will be required to send out decisions to parents and carers on applications. (Para 2.23)

## **13 Other Admissions Code Changes**

13.1 Schools Adjudicator role to be extended to consider *all* objections to admission arrangements, but to remove the Schools Adjudicator's ability to modify a school's arrangements in a determination with this responsibility resting with the admission authority.

13.2 Removal of the statutory requirement on local authorities in England to set up Admission Forums.

## **14 Admission Appeals Code 2012**

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<sup>6</sup> This is the LA process for co-ordinating applications for school places and offers for their area. All local authorities are required to co-ordinate the normal admissions round for primary and secondary schools in their area. Schools can take in-year applications directly from parents, provided they notify their local authority of each application and its outcome.

- 14.1 The Code applies to all appeals lodged on or after 1 February and applies to admission appeals for all maintained schools in England. Academies are required by their funding agreements to comply with the Code and the law relating to admissions.
- 14.2 The requirement for appeal panels to refer unlawful admission arrangements to the Schools Adjudicator has been removed. Instead, panels are required to refer such arrangements to the local authority and the admission authority, if applicable, so that they can be reviewed for the next admissions round. (Para 3.4)
- 14.3 On receipt of their decision on an application, parents and carers were previously allowed 10 working days to lodge an appeal. This has been changed with a requirement on admission authorities to allow parents and carers at least 20 working days from receipt of an offer to prepare and lodge an appeal. (Para 2.1)
- 14.4 Previously, if a member of the panel withdraws, the requirement was that all appeals in a multiple appeal for a school would have to be re-heard. The new Code has been revised to allow the appeal hearing to be postponed until the third member returns or the admission authority appoints a third member. (Paragraph 1.9)
- 14.5 The previous Appeals Code required that admission authorities accept evidence provided by parents at any stage of the appeal process, including on the day of the hearing. The revised Appeals Code gives parents at least two opportunities to provide evidence, including a new requirement that parents can be requested to provide initial evidence when lodging an appeal. The Code requires that admission authorities inform parents that any information or evidence not received in advance of the hearing may not be considered at the appeal. (Paras 2.7 and 2.10)
- 14.6 The guidelines around venues have been relaxed. Admission authorities must nevertheless hear appeals in appropriate venues, (Para 2.14)
- 14.7 The requirement for admission authorities to advertise for lay appeal members every three years has been removed. Instead, the requirement is to ensure that panel members retain their independence for the duration of their service. With regard to training of panel members, this has also been relaxed with the removal of the requirement for training every two years and annual updates being replaced with the requirement that initial training is mandatory and any further training by agreement between individual members or panels and the admission authority. (Paragraph 1.10)
- 14.8 There is a new requirement placed on admission authorities to publish their appeals timetable on their website by 28 February each year (Para 2.2)