

School Admissions Code 2021 – are you ready for implementation?

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10 August 2021

On 1 September 2021, the School Admissions Code 2021 (the Code) will come into force and replace the current version from 2014. Parliamentary approval for the Code was provided on 13 July 2021.

As we highlighted in our [recent webinar](#), admission authorities will now need to take action to ensure their admission arrangements are compliant with the Code and that the relevant decisions are taken by the admission authorities to ensure processes are in place to deal with the Code's requirements, especially in relation to in-year admissions and fair access arrangements.

On 13 July 2021, the Department for Education (DfE) also published non-statutory guidance to assist with two of the key changes under the Code – children in care outside of England and Fair Access Protocols. Admission authorities should also get to grips with these additional publications as they do provide a useful insight into how the Department expects the new admissions framework to operate.

The first publication - [Admissions priority for children adopted from state care outside of England](#) deals with “internationally adopted previously looked after children” or IAPLACs. It provides guidance on how admission authorities should deal with the extension of priority to this group of children and contains the following key points:

- Admission authorities should ensure their application forms provide an opportunity to state whether the child meets the IAPLAC criteria and whether the Virtual School Head (VSH) has previously been involved with the child.
- It is for parents to provide the evidence to the admission authority to support the child having IAPLAC status. This requirement can extend to parents translating relevant documents or obtaining official documents regarding the child from the relevant embassy or other agency. Parents will not need to provide this information where the VSH has previously been involved and has made a determination on the child's status. Admission authorities should not be asking for further information from parents in such cases.
- Admission authorities will only need to check the information where the oversubscription criteria will be applied, i.e. where there are more applicants than places available or where there are no places, but the parent wishes to take a place on the waiting list (if available).
- The evidence must be sufficient to show that the child was adopted and was previously in state care outside of England. The guidance highlights the type of information that is available to indicate to the admission authority that this criterion is satisfied. Where the admission authority has concerns about the evidence received, it should contact the VSH for advice.
- A refusal by the admission authority to accept a child's IAPLAC status must be explained in writing to the parents.

The second publication [Fair Access Protocols](#) replaces the previous DfE guidance issued in November 2021. The new guidance does not set out how referrals to the DfE for directions will be managed and does not establish how the DfE will determine such requests. This, perhaps, reflects the stance taken in the guidance and the Code that FAP decisions must be implemented by admission authorities.

The guidance appears to repeat much of the content from the Code and does not add a great deal of additional value to the understanding of the revised Fair Access process. It is useful in that it confirms:

- The key principles of fair access arrangements – that they act as a safety net to ensure the admission of eligible children to suitable schools where in-year admission processes have failed to do so; that to be eligible for consideration under fair access, the child must be unplaced and meet one of the criteria set out in the Code (paragraph 3.17); and that fair access arrangements must work to ensure no school takes a disproportionate number of children.
- There must be evidence that reasonable steps have been taken to engage in in-year admission processes before eligibility for fair access support is determined. Additionally, admission authorities cannot refuse to deal with an in-year admission on the grounds that it may be eligible for fair access support. Any in-year admission must be dealt with in accordance with the requirements of the Code.
- That fair access protocols must be consulted upon and agreed by the majority of schools and, where those arrangements are not working, there must be a process to revise the arrangements. Given the changes to the fair access arrangements in the Code, we would expect that Local Authorities will consult on their arrangement as soon as possible to give effect to the Code's revised requirements.
- That fair access protocols should consider the input of neighbouring local authorities where there are cross-border issues and, additionally, obtain input from other relevant agencies where the circumstances require it.
- That admission authorities should delegate decision making on fair access issues to a member of staff to allow the fair access arrangement to work efficiently.
- Fair access decisions must take account of the needs of the child when looking for a placement which is suitable to their needs. In addition, the views of the school which may be asked to admit must be considered and any reasons against admitting must be considered where they are compelling. The issue of whether the school has taken disproportionate numbers must also be considered alongside parental preference.
- An admission authority which is allocated a child under fair access arrangements should admit that child within the specified timescales. If that does not happen, the admission authority may be directed to do so by the Local Authority (maintained schools) or DfE (academies). As set out above, the presumption appears to be very much in favour of admission in these cases.

The Code and this additional guidance will require admission authorities to review their practices and potentially update admission policies and procedures. It will be important to ensure your own admission authorities have appropriate governance structures and delegations in place to deal with the new approach to IAPLAC admissions and FAP arrangements. We can provide advice and support on all areas relating to admissions and the implications of the Code, and if you need support, please contact [Richard Freeth](#) or [Philip Wood](#).

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