

Admissions during Covid-19

Whilst the Department for Education (DfE) has implemented statutory changes to elements of the frameworks relating to admission appeals, exclusions and special educational needs, there have been no changes relating to the legislation relating to admissions.

24 June 2020

Please note: the information contained in this legal update is correct as at 8 February 2021

Whilst the Department for Education (DfE) has implemented statutory changes to elements of the frameworks relating to admission appeals, exclusions and special educational needs, there have been no changes relating to the legislation relating to admissions.

In relation to admissions where the child has an Education Health and Care Plan (EHCP), the requirements of the Children & Families Act 2014 and the SEND Code of Practice 2015 will continue to apply to state funded schools. There is still a requirement for the local authority to share the EHCP and appendices with the school through the consultation process and for the school to respond within 15 days to the consultation. The local authority must carefully consider the school's response before making a decision on whether the school should be named in section one of the EHCP. If that decision is made, schools will be under a legal duty to admit the child and it will be necessary to undertake the risk assessments (as set out within DfE guidance) around whether it is advisable for that child to attend school or stay at home with education being provided through the school's usual means. Where the school feels that the local authority's decision is unreasonable, it is open to the school to complain about the decision to the DfE.

At the current time, the requirements of the School Standards and Framework Act 1998, the School Admission Regulations 2012 and the School Admissions Code 2014 will continue to apply in full and as normal to admission practices across all state funded schools. Therefore, as confirmed by paragraph 2.21 of the Admissions Code 2014, a parent can choose to apply for a school at any point during the year. It is for admission authorities, through their admission committees or other delegated arrangements, to determine whether to offer a place at the school as a result of the application or to reject the application. If the latter option is taken, the statutory right of appeal would come into play and if the parents request an appeal it would be heard in line with the amendments to the appeal arrangements set out in the 2020 regulations.

Any request for admission should be determined within a reasonable timescale and the school must provide notification to the local authority of receipt of the appeal and its outcome (paragraph 2.21 of the Code). Admission authorities, where admission services are provided by the third party (such as the local authority), must ensure that any service continues to comply with the requirements of the admissions framework.

Sixth Form Admissions

We received a number of queries arising from the potential impact of the exam grading requirements for last summer's GCSE exams and the uncertainty around how grades would be assessed. This had an impact on offers for places at sixth form for internal and external applications where the admission arrangements were based on clear minimum grades at GCSE. Where admission arrangements have clear thresholds based on grades set out within the policy, those grades must be applied as per the policy to all requests for admission. It is an express provision within the School Admissions Code 2014 that any places allocated at a school must be done in line with the published admission policy – see paragraph 2.7 of the School Admissions Code 2014. Given that the government has announced that all GCSE grades for 2021 will be awarded on the basis of teacher assessments rather than a flawed algorithm, we hope there will be a smoother process this year.

If you receive an admissions appeal and would like to discuss your options with one of our legal experts please [contact us](#).

Contact



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