

What does the new Schools Bill mean for admissions?

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This article is part of our series of briefings on [The Children's Wellbeing and Schools Bill](#)

Sections 47 to 50 of the Children's Wellbeing and Schools Bill cover changes to the admission regime which are aimed at achieving greater cooperation between schools and local authorities (LAs) with regard to their duties relating to place planning and alternative provision. They aim to do this by giving LAs more influence over admission to schools for whom they are not the 'admission authority' - in particular, academies.

Cooperation between schools and local authorities

Section 47 introduces new provisions requiring co-operation between schools/academies and their LA in their exercise of their respective functions, and specifically requiring maintained schools, academies and pupil referral units to make decisions regarding criteria and published admission numbers (PANs) that support their LA with its duties to:

- Secure sufficient primary and secondary school places for children in their area (the Section 14 place planning duty).
- Provide suitable alternative education at school or otherwise for children of compulsory school age not otherwise receiving it due to illness, exclusion or other reason (the Section 19 alternative provision duty).

In practice, this will mean that own admission authority schools and academies must consider the admission criteria and PANs of other schools in the area, and the combined impact on places in the area when considered alongside its own proposed criteria and PAN, before determining it.

Whether this will essentially result in 'pre-consultation' before formal consultation or will be dealt with during the formal consultation process itself, will remain to be seen.

Power to direct admission: Extension to academies

Section 48 will extend LAs' existing general power of direction in respect of maintained schools to academies, along with the right of appeal to the Schools Adjudicator.

This power enables a LA to direct a school or academy (but not a special academy) which provides 'suitable education' and is located within a reasonable distance from the child's home to admit the child, even if the school is full, where it can demonstrate that the child has been refused admission and/or been permanently excluded from every suitable school/academy within a reasonable distance of their home, following prior consultation with the school/academy.

It's worth noting that a 'suitable education' means "*efficient full-time education suitable to his age, ability and aptitude and (in the case of a local authority in England) to any special educational needs ... he may have*".

Sixth forms and infant class year groups

In the case of sixth forms, the child must meet the Minimum Academic Entry Criteria for entry to Year 12, and a direction to admit to Reception Year, Year 1 or Year 2 may only be made where the school would not have to take measures to avoid breaching the statutory maximum infant class size, if those measures would prejudice the provision of efficient education or the efficient use of resources.

Power to direct admission: Additional triggers

Section 49 adds to the LA's existing general power of direction referenced above so that it also has the power to admit the following children *without* needing to demonstrate they have been refused admission/permanently excluded from all schools within a reasonable distance:

- Children placed under the LA's Fair Access Protocol (the wording has been carefully drafted so that it can be added to at a later date, if desired).
- Previously looked after children, as defined in the School Admissions Code 2021 (i.e. including children who appear to have been adopted from state care outside England).

The requirement to consult, and the right of appeal to the Adjudicator, will apply to these provisions.

Functions of adjudicator in relation to admission numbers

Section 50 amends existing legislation to give the Adjudicator the power to decide what the PAN will be for any school or academy, following an objection or referral relating wholly or partly to the PAN where the Adjudicator decides that it does not conform with requirements. The power is available in respect of that intake and also the following intake, and the PAN may be split between boarding and day places where applicable.

However, the power will *not* apply where there has been no objection/referral relating to the PAN, and the Adjudicator is simply exercising her statutory power to review the remainder of the admission arrangements for compliance as an ancillary task. Further, consent to vary a PAN that was set by an Adjudicator may still be requested by an admission authority, where there has been a major change in circumstances.

The section provides for separate regulations to be made setting out the factors that must or must not be taken into account by the Adjudicator, and/or restricting the circumstances in which the power may be exercised.

The explanatory note published alongside the Bill sets out the Government's intention to amend current regulations to allow LAs to object to a PAN where it has been maintained at the same level or increased from the previous intake (currently, objections cannot be lodged about a PAN unless it has been reduced, and there is a presumption in favour of increases).

Things to be thinking about

Surprisingly, anticipated changes giving LAs more control over in-year admissions have not materialised. However, giving LAs the power to direct academies to admit children in certain circumstances, and expanding this power across the board, is likely to have a significant impact on in-year admissions indirectly.

Academies will need to be ready to respond quickly and appropriately to consultations, and to then decide whether and how to appeal to the Adjudicator within 15 days of receipt of a notice of intention to direct. The consultation response and subsequent appeal will for the most part be based on a 'prejudice' argument, although there may be scope to argue in limited cases that the school does not provide 'suitable education' for the particular child concerned, as per the definition referred to above.

Further thoughts

Interestingly, the Bill does **not** propose any changes to the separate LA power to direct the admission of looked-after children (which only applies to maintained schools), and it's not entirely clear why this is given the addition of previously looked after children to the general power, as set out above.

Giving an additional power to LAs to object to a PAN staying the same or being increased is clearly a response to falling pupil numbers and follows many years of encouragement by previous governments to successful schools to expand, sometimes to the detriment of less popular schools nearby who have faced closure due to falling roles.

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