



Office of the Children's Commissioner's response to the consultation on Changes to the School Admissions Code

29 September 2014

About the Office of the Children's Commissioner

The Office of the Children's Commissioner (OCC) is a national public sector organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. We promote and protect children's rights in accordance with the United Nations Convention on the Rights of the Child and, as appropriate, other human rights legislation and conventions.

We do this by listening to what children and young people say about things that affect them and encouraging adults making decisions to take their views and interests into account.

We publish evidence, including that which we collect directly from children and young people, bringing matters that affect their rights to the attention of Parliament, the media, children and young people themselves, and society at large. We also provide advice on children's rights to policy-makers, practitioners and others.

The post of Children's Commissioner for England was established by the Children Act 2004. The Act makes us responsible for working on behalf of all children in England and in particular, those whose voices are least likely to be heard. It says we must speak for wider groups of children on the issues that are not-devolved to regional Governments. These include immigration, for the whole of the UK, and youth justice, for England and Wales.

The Children and Families Act 2014 changed the Children's Commissioner's remit and role. It provided the legal mandate for the Commissioner and those who work in support of her remit at the OCC to promote and protect children's rights. In particular, we are expected to focus on the rights of children within the new section 8A of the Children Act 2004, or other groups of children whom we consider are at particular risk of having their rights infringed. This includes those who are in or leaving care or living away from home, and those receiving social care services. The Act also allows us to provide advice and assistance to and to represent these children.

Our vision

A society where children and young people's rights are realised, where their views shape decisions made about their lives and they respect the rights of others.

Our mission

We will promote and protect the rights of children in England. We will do this by involving children and young people in our work and ensuring their voices are heard. We will use our statutory powers to undertake inquiries, and our position to engage, advise and influence those making decisions that affect children and young people.

The United Nations Convention on the Rights of the Child

The UK Government ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991.¹ This is the most widely ratified international human rights treaty, setting out what all children and young people need to be happy and healthy. While the Convention is not incorporated into national law, it still has the status of a binding international treaty. By agreeing to the UNCRC the Government has committed itself to promoting and protecting children's rights by all means available to it.

The legislation governing the operation of the Office of the Children's Commissioner requires us to have regard to the Convention in all our activities. In relation to the current consultation, the articles of the Convention which are most relevant to this area of policy are:

Article 2: The convention applies to all children

Article 3: Decisions should be made in the best interests of the child.

Article 28: All children have the right to an education

The response below has therefore been drafted with these articles in mind. We do not propose to respond separately to every consultation question. Rather, we will respond where we feel the UNCRC gives us a locus to do so, and where our existing evidence base gives us a perspective. Throughout, we use the same section headings as in the consultation document.

¹ You can view the full text of the United Nations Convention on the Rights of the Child on the Office of the United Nations High Commissioner for Human Rights website at: <http://www2.ohchr.org/english/law/crc.htm>. A summary version, produced by UNICEF, is available at: http://www.unicef.org/crc/files/Rights_overview.pdf

Consultation on Changes to the School Admissions Code

We are grateful for the opportunity to respond to this consultation. This response is informed by the report published by OCC on the school admissions system in April this year: *It might be best if you looked elsewhere*.

We strongly support the stated aim of the changes being proposed:

...to improve the fair and open allocation of places in maintained schools and academies, and to support social mobility by allowing admission authorities to give priority for school places to disadvantaged children.

Our responses below are made with the intention of strengthening the admissions code in order to achieve this aim.

With regard to the specific points on which you are currently consulting, our response is as follows.

Allowing all state-funded schools to give priority in their admission arrangements to children eligible for pupil premium or service premium funding.

We have previously supported this proposal and continue to do so. We consider that removing this difference in admissions rules between maintained schools and academies is overdue. Children and their families will now find the admissions process easier to understand when applying to a number of schools. This change will also allow children who are eligible for the pupil premium to have access to a much larger number of high-performing schools.

Allowing admission authorities of primary schools to give priority in their admission arrangements to children eligible for the early years pupil premium, pupil premium or service premium who attend a nursery which is part of the school.

We appreciate the intention of this proposed change to the admissions code. However, we have concerns regarding any changes which will link attendance at a nursery to admission to a primary school. We expressed concern about this trend in *It might be best if you looked elsewhere* and do so again here. This is for two reasons.

Firstly, in some areas linking school admissions to on-site nursery attendance can impose a *de facto* school starting age of two. Families can feel forced to send their children to school at this age if they want access to their first choice of primary school. It also gives school-based nurseries a competitive advantage over other forms of high-quality childcare.

Secondly, there is strong evidence, which is supported by the Office of the Schools Adjudicator, that linking primary school admissions to nursery attendance hinders less affluent families, who are the very families that these changes are intended to help. These families are less likely to be able to plan schooling two or three years in advance. In a flexible labour market, they are obliged to be more mobile, so may move into an area with a four year old, only to find that all the schools are effectively full.

For these reasons, we therefore recommend that this proposal be reconsidered.

Revising the timetable for admission arrangements to bring forward dates for admission authorities to consult locally on their arrangements (and reduce the length of the consultation from eight to six weeks);

We consider that these proposed changes, when taken together, are likely to have the effect of making it less likely that unlawful admissions criteria will be identified. It will mean that those who may wish to object to changed admissions arrangements will need to do so further in advance, and to a shorter timetable. This will disproportionately affect those children who these changes are intended to help – who are most likely to be disadvantaged by frequent changes to admissions arrangements. We therefore recommend that this be reconsidered.

Requiring admission authorities to amend their admission arrangements to comply with the Code within two months of a decision of the Schools Adjudicator, where the Adjudicator rules the arrangements are unlawful.

We strongly support this proposal, which will substantially accelerate the pace at which unlawful arrangements are changed.

Amending the Code to make clear that the provision giving highest priority for admission to looked-after and previously looked after children applies to all children who have been adopted from local authority care.

We strongly support this proposal. From correspondence received by OCC, we know that there is too often a lack of understanding of this element of the admissions code among schools, and that this can be to the detriment of children. Greater clarity is to be welcomed.

Other issues

We appreciate that this is a consultation focused on relatively small parts of the admissions code. However, we would like to take this opportunity to restate the recommendations on changes to the code made in *It might be best if you looked elsewhere*. We request that these be considered in the context of this consultation.

For further details, please contact John Connolly, Principal Policy Adviser, on

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