



Office of
the Schools
Adjudicator

Office of the Schools Adjudicator annual report

September 2013 to August 2014

December 2014

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Introduction

This report, my third as Chief Adjudicator, covers the period 1 September 2013 to 31 August 2014.

The Office of the Schools Adjudicator team, of adjudicators and office staff, has once again worked hard to deal with all matters referred to us and, as necessary, to point enquirers in the right direction to other bodies when an issue is outside the jurisdiction of an adjudicator. We have continued to respond as quickly as possible to requests for information and to cases that require a decision by an adjudicator to be published in a determination without compromising the need for all matters to be handled properly with integrity and impartiality. The very high number of cases has led to some decisions being delayed for longer than we would wish. I have included findings from the admissions cases received within the reporting year and the decision issued before the completion of this report in the hope that admission authorities may avoid in their arrangements for 2016 the matters of non-compliance that I have highlighted. I consider it may be of more use to the Department for Education, parents, schools, local authorities and others to know of the findings now rather than in another year's time.

The format of this report mostly follows that of last year. It makes some comparisons with work in previous years, reports on issues from the last year and sets out the main findings from the work done by the OSA.

I hope the Secretary of State and others will find the report useful.

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December 2014

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Executive summary and main findings

1. The Office of the Schools Adjudicator (OSA) has had a very busy year. The rise towards the summer peak began earlier this year and during the winter months the case load remained steady and low. There have been changes in the staff resulting in a year with 15 adjudicators at one time or another, with 12 over the busy summer period, and eight administrative staff. Everyone in the OSA team works part-time except four of the administrative staff.
2. The Education Act 2011 and the associated new admissions regulations and School Admissions Code (the Code) had already brought changes to the work of the OSA and this year there have been new regulations and guidance concerning statutory proposals. The School Organisation (Discontinuance and Establishment of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) Regulations 2013 with the associated guidance have meant that adjudicators have had to check carefully whether a case had to be considered against the old or the new regulations.
3. **Objections to admission arrangements** for all types of state-funded schools, other than 16-19 schools, are within the OSA's remit and have, as previously, accounted for the largest part of our work. Once again there were more referrals from parents than any other group, and there was an increase in the number from local authorities and from other bodies. Many of the enquires to the OSA indicate that there is still a misunderstanding among some parents about the remit of the OSA in relation to individual children who are not allocated a place at the school the parent would prefer.
4. A concern, yet again, is that despite the mandatory requirements of the Code and comments in previous annual reports, we have found admission authorities that are not meeting the requirements for consultation, determination and publication of their arrangements. As a consequence parents and others are unable to consider the arrangements and, if necessary, object in a timely manner as permitted by the Code and often there are late objections when eventually the arrangements are seen. The objections relate to matters that are mostly the same as in previous years, but the complexity of cases has increased further.
5. The number of requests for a **variation** to determined admission arrangements for maintained schools has risen this year, but to a still low level compared with 2011/2012. The OSA continues to receive enquiries about how to seek a variation to determined arrangements for academy schools and queries as to why the process is different from that for maintained schools.
6. Appeals against a local authority's notice of intention to **direct** a maintained school to admit a child have formed a small part of our work, but when a case is received it is given priority over all other work. Despite drawing attention to the

matter in previous years, cases continue to be found to be out of jurisdiction for making a direction because the local authority has not met the requirements of the School Standards and Framework Act 1998 (the Act) before notifying the school of its intention to direct the school to admit the child. The result of failing to comply with the Act is that the child is out of school for longer than s/he should be.

7. There has been an increase in the number of **statutory proposals** referred to the OSA compared with last year. Although the cases mainly involved proposals to form a community primary school from separate community infant and junior schools there were several other types of cases this year including adding a sixth form at one school and removing it at another. Occasionally a case is referred to the Adjudicator either because the local authority has not made a decision in the prescribed two month period or the governing body of a school appeals against a decision taken by the local authority.
8. The number of **land transfer** cases concerning maintained schools has remained small. Each case has to be considered carefully and often a site visit is required to enable the adjudicator to understand the geography of the immediate locality, site access and the nature of the buildings involved. This is necessary to be able to decide exactly who was using the land prior to the change of status of the school and who has need of the land or buildings.
9. Local authorities in England are required to prepare a **local authority annual report** that must be sent to the Adjudicator by 30 June. They must also meet the requirement to publish the report locally. This year all 152 local authorities prepared and sent their report to the OSA. Fewer reminders were needed than in previous years to ensure all the reports were received. The scope of the report is set out in the Code which prescribes what must be included and makes provision for local authorities to raise other issues. It also provides the opportunity to include questions about issues that have emerged during the previous year. Questions were included this year, for example, on fraudulent applications, at the suggestion of local authorities, and on the provision of information in a local authority's composite prospectus about admission to sixth forms.
10. The application of fair access protocol procedures continues mostly working effectively in placing children who do not have a school place in the school that best meets their needs. Most schools work well with their local authority in ensuring a place is available, but a small minority of schools do not co-operate fully and delay or strongly resist the admission of a child. Very few instances of a child needing a place have ended with a direction to a school to admit.
11. The 2012 Code is a more concise document than earlier Codes. Where there is no specific statement in the Code about, for example, a particular matter in the

oversubscription criteria, this has led to some admission authorities interpreting what they think is permitted, but not testing it against the general requirements of the Code. Arrangements are then often found to be non-compliant. However, as the Code is so concise there is no excuse for any admission authority not to read it and comply with its requirements. Some of our findings about the objections referred to the OSA clearly indicate that the admission authority had not read the current Code and therefore failed to comply with its mandatory terms. Paragraph 14 sets out the *“Overall principles behind setting arrangements”* and says, *“In drawing up their admission arrangements admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”* Admission authorities need to test their arrangements against this paragraph as well as all the specific requirements in the Code.

12. The main findings from the cases considered this year are, unfortunately, not significantly different from those reported last year. The OSA only becomes involved when there are differences of opinions and the findings are, therefore, mostly of continuing problems.

Main finding 1. Too many admission authorities of schools that are their own admission authority do not comply fully with the Code in respect of consultation about, determination of, and publication of their admission arrangements. Paragraphs 1.42 to 1.49 of the Code set out very clearly what an admission authority must do for itself and also do to enable its local authority to meet the requirement set for it in respect of publication of admission arrangements.

Main finding 2. Admission arrangements for admission to the sixth form are frequently found to contravene the Code. They are, for example, difficult to find, lack an admission number, do not include oversubscription criteria and have application forms that request information prohibited by the Code.

Main finding 3. Schools that are their own admission authority often have arrangements that lack the required information and request prohibited information in their supplementary information forms. They do not meet their responsibility for having admission arrangements that comply fully with admissions law and the Code.

Main finding 4. Admission arrangements for too many schools that are their own admission authority are unnecessarily complex. The arrangements appear to be more likely to enable the school to choose which children to admit rather than simply having oversubscription criteria

as required by paragraph 1.8 of the Code that are reasonable, clear, objective and procedurally fair.

Main finding 5. The practice of some primary schools of giving priority for admission to the reception year to children who have attended particular nursery provision has again been found to be unfair to other local children, constrain parents' preferences for child care and pre-school provision and not comply with the general requirements of the Code.

Background

13. The OSA was formed in 1999 by virtue of section 25 of the School Standards and Framework Act 1998 (the Act) which gives the Secretary of State the power to appoint “*persons to act as adjudicators*”. It has a remit across the whole of England.
14. Adjudicators resolve differences over the interpretation and application of legislation and guidance on admissions and on statutory proposals concerning school organisation. The adjudicators have five main functions.

In relation to all state-funded schools adjudicators:

- rule on objections to and referrals about determined school admission arrangements;

and in relation to maintained schools adjudicators:

- decide on requests to vary determined admission arrangements;
- determine appeals from admission authorities against the intention of the local authority to direct the admission of a particular pupil;
- resolve disputes relating to school organisation proposals; and
- resolve disputes on the transfer and disposal of non-playing field land and assets.

15. The Chief Schools Adjudicator can also be asked by the Secretary of State for Education to provide advice and undertake other relevant tasks as appropriate. The Secretary of State also has the power to refer to the Adjudicator admission arrangements that do not or may not conform with the requirements relating to admission arrangements.
16. At 31 August 2014 there were 12 adjudicators, including the Chief Adjudicator. Adjudicators are appointed for their knowledge of the school system and their ability to act impartially, independently and objectively. Their role is to look afresh at all cases referred to them and to consider each case on its merits in the light of legislation, statutory guidance and the Code. They investigate, evaluate the evidence provided and determine cases taking account of the reasons for disagreement at local level and the views of interested parties. Although there is no legal requirement for adjudicators to hold meetings with the interested parties they may do so if they consider it would be helpful to them as they investigate a case.

17. Adjudicators are independent of the Department for Education (DfE) and from each other. They usually work alone in considering a referral unless the Chief Adjudicator assigns a particular case or cases to a panel of two or more adjudicators, in which circumstances the panel will consider the case(s) together. All adjudicators, including the Chief Adjudicator, are part-time, work from home and take adjudications on a 'call-off' basis. All may therefore undertake other work at times when they are not working for the OSA provided it is compatible with their role as an adjudicator. Adjudicators do not normally take cases in local authority areas where they have been employed by that authority or worked in a substantial capacity in the recent past, or where they currently live or have previously worked closely with individuals involved in a case or for any other reason if they consider that their objectivity might be, or perceived to be, compromised.
18. Determinations are legally binding on admission authorities. Decisions, once published, cannot be challenged other than through the Courts. They are checked before publication by the Chief Adjudicator and, where appropriate, by lawyers. Adjudicators must consider each case against the current legislation and for admissions matters must also consider each case against the Code. They cannot be bound by similar, previous cases and determinations as they are required to take the specific features and context of each new case into account as well as to apply the relevant legal provisions.

Review of the 2013 report's main findings

19. The 2013 Annual Report concluded with five main findings and action required.

20. These main findings are shown below together with the progress that has been made.

21. **Main finding 1** - Too many admission authorities do not comply fully with the Code in respect of consultation about and determination of their admission arrangements as summarised in paragraph 15 of the Code. Neither do they check that their arrangements conform with the principles behind setting admission arrangements as explained in paragraph 14 of the Code.

This finding has not been acted on with due attention by all schools that are their own admission authority. There have again been many cases where the admission authority had not consulted properly in accordance with admissions law and the Code, or had not determined its arrangements by 15 April.

22. **Main finding 2** - Too many admission arrangements for admission to sixth forms fail to comply with the Code.

Despite repeated previous references to non-compliance of sixth form arrangements, admission authorities still do not meet the general requirements of the Code or those specific to the sixth form.

23. **Main finding 3** - Admission arrangements for all relevant age groups are often difficult to find on a school's website; do not make clear the year to which they apply; or are incomplete.

Finding admission arrangements remains a challenge even for adjudicators who spend much time looking for them on schools' websites. More remains to be done to make admission arrangements readily available for all who wish to see them.

24. **Main finding 4** - New schools and those that become their own admission authority do not always fully understand their responsibilities for having lawful admission arrangements that comply with admissions law and the Code.

Progress is being made, but there is still much to do to ensure schools understand fully and then meet the duties laid on them with regard to admissions.

25. **Main finding 5** - The practice of some primary schools of giving priority for admission to the reception year to children who have attended particular nursery provision has been found to be unfair to other local children.

Schools that wish to give priority to children attending certain nursery provision still do not consider carefully enough the requirements for admission arrangements to be fair for all children starting compulsory schooling so that they all have a fair chance of securing a place in a reception year class irrespective of decisions made about pre-school provision.

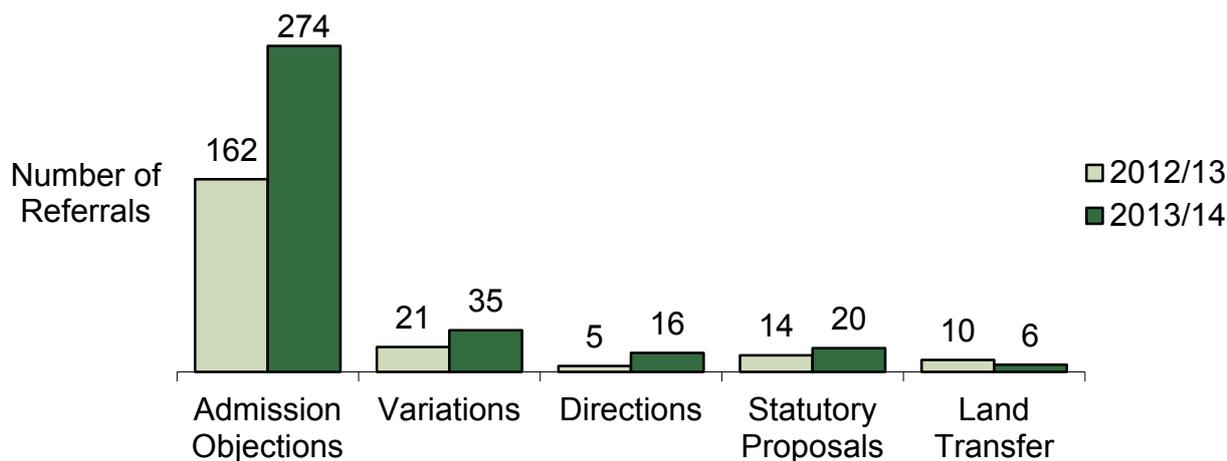
Review of the year 2013/14

26. Overall the OSA has had a very busy year. The workload has again been uneven, with a steady, low number of cases in the winter and a much higher number in the summer months. The number of cases reached an unprecedented level in the summer after receiving over 80 cases in the final days when an objection to admission arrangements could be made. The submission of these “late” cases resulted in many being carried forward to the new school year. There has been no reduction in the many enquiries sent to the OSA even though the matter, for example, a child not being allocated a place at the school the parent would most prefer, is outside our remit. Many enquiries should more properly be directed to the DfE or Education Funding Agency (EFA) and we redirect the enquirer if possible to where they may receive the assistance they need. Local authorities and others continue to ask about the application of legislation or for more general advice, and again we have to redirect them to the relevant body.
27. I have had regular meetings with Ministers and DfE officials to report on the work of the OSA and to try to ensure the OSA works efficiently and effectively with the School Organisation and Admissions Division (SOAD), our sponsor division, while at the same time maintaining the OSA’s independence which is an essential requirement for our work and for maintaining public confidence in our decisions. As Chief Adjudicator I have met, when appropriate, with groups that share an interest in our work and I have spoken on issues related to our work, primarily admissions, at a number of conferences.
28. The team of adjudicators has changed during the year covered by this report. We have had new colleagues join us and some move on to other work. The demands over the summer and beyond have meant that a heavy load was carried by adjudicators and office staff alike with everyone showing considerable dedication to duty to try to bring cases to a conclusion. The qualifications and backgrounds of all adjudicators are available from the OSA.
29. Adjudicators, including the Chief Adjudicator, are part-time and are only paid for the time actually spent on cases and related work. Fee rates have remained the same since 2007. Adjudicators are supported by 6.5 full-time equivalent administrative staff based in the DfE’s Darlington office. *Appendix 2* shows the OSA’s costs.
30. The administrative staff provide the vital link between those referring matters to the OSA and adjudicators who make the determinations. It is the Darlington team that responds to the numerous requests for information from the large number of people who contact the OSA. I have reported previously that as the work of the OSA has evolved I was concerned that the demands over the

summer months could not always be met in as timely a way as we would wish. Adjudicators have worked for many more hours than indicated on their appointment as likely to be required and the office staff have exceeded their normal working hours to keep cases progressing towards completion. We need to continue to consider ways of responding to whatever number of cases may be sent to us so that we have well-trained staff available when needed, but are not overstaffed during the quieter months of the year.

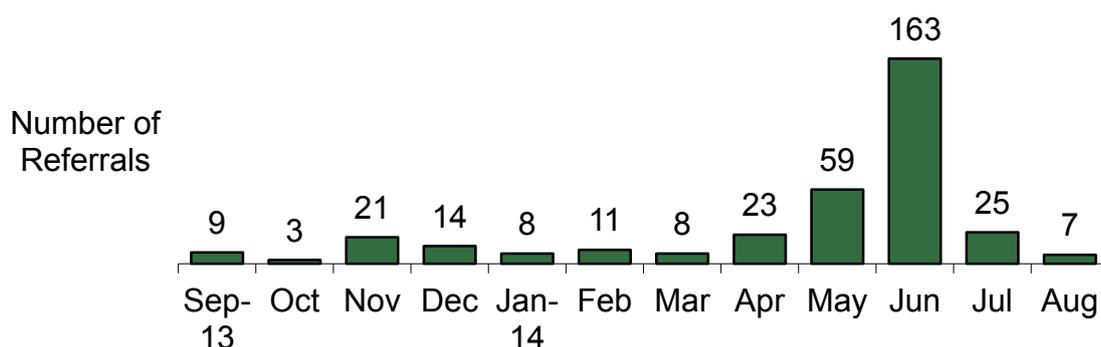
31. The OSA does not have full-time legal staff, but instead uses 'call-off' support from members of the Treasury Solicitor's Department (TSol). We seek advice as necessary to try to ensure that our determinations are legally sound. I am extremely grateful for the timely advice and valuable support from our TSol colleagues over the year and especially for ensuring cover over the summer period. Although there were no judicial reviews of our work during the year we received two letters before claim pursuant to the pre action protocol and concluded in both cases that we should agree a consent order to enable us to make a new determination.
32. We received 15 requests for information under the Freedom of Information Act. They were responded to within the specified timescales, but the work required to respond consumed a significant amount of the team's time. We also received six complaints ranging from the handling of a case to the complainant's opinion about a decision. On completion of a case the parties are invited to provide feedback and it has been gratifying to receive positive comments even when the people responding did not receive the decision they hoped for. When critical comments are received we make every effort to assess why the person was dissatisfied and if necessary take action to improve whatever caused the dissatisfaction if it was in the way the case was handled.
33. Overall we dealt with 351 new cases this year compared with 212 last year. With just over 20,000 state-funded schools spread across 152 local authorities in England only a very small proportion of these schools has been part of cases referred to the OSA.

Figure 1: Referrals by type 2012/13 and 2013/14



34. Local authorities must submit a report to the adjudicator by 30 June each year. The report includes the number of types of schools in their area which showed that the local authority was the admission authority for 9,443 community and 2,341 voluntary controlled schools. The relevant body, the governing body or the academy trust, was the own admission authority for 8,818 schools comprising: 3,771 voluntary aided; 1,029 foundation; and 4,018 academy schools. The number of academy schools increased during the year as maintained schools converted to academy status and new academy schools, free schools, university technology colleges and studio schools, opened. Many of the academies were previously foundation or voluntary aided schools and as such were already their own admission authority. There are just under 500 fewer community and voluntary controlled schools than recorded last year. Some may have closed, for example an infant and junior school closed and were replaced by a primary school thus replacing two schools with one, some have acquired foundation status and others converted to academy status. These foundation and academy schools have become their own admission authority for the first time.
35. This year 171 cases were carried over into the new reporting year of 2014/2015 compared with 52 that were carried over into 2013/2014. Although the earlier date of 30 June introduced in 2012 by which objections to admission arrangements must be made to the OSA enabled many investigations to begin before schools closed for the summer holiday, the high number of new objections received in the final week placed a considerable strain on the team and it was not possible to open and begin the investigation of these cases before schools closed in July. The OSA continued to receive admissions cases which merited investigation as the arrangements had come to the attention of the adjudicator, as well as other types of cases, during July and August. The timing of receipt of these cases meant that investigations continued into the new school year. The distribution of referrals received over the year shows how the work load varied in the last 12 months.

Figure 2: Distribution of referrals month by month 2013/14



Admissions

Objections to and referrals about admission arrangements

36. During the year adjudicators have considered 274 new and 44 cases carried forward from 2012/13 concerning objections to, and referrals about, admission arrangements. The 274 new cases reporting concerns about admission arrangements related to 204 individual admission authorities and is a considerable increase on the 162 cases (94 individual admission authorities) last year. There were 161 cases finalised and 157 cases carried over into September 2014. Of the determinations issued, in 86 the objections were fully upheld, 13 were partially upheld and in 23 cases the objections were not upheld, but in many of these there were other matters that did not comply with the Code. Of the remaining cases 30 were out of jurisdiction and nine were withdrawn.
37. Of the 274 cases, 30 concerned the admission arrangements for community and voluntary controlled schools, 71 voluntary aided schools, 26 foundation schools and 147 academy schools.

Table 1: Objections to and referrals about admission arrangements by year and outcome

	2013/14	2012/13
Number of cases considered	318	189
Number of new cases	274	162
Cases carried forward from previous year	44	27
Number of different admission authorities	204	94
Cases finalised	161	145
Number of objections: upheld	86	46
partially upheld	13	51
not upheld	23	20
Cases withdrawn	9	5
Cases out of jurisdiction	30	23
Cases carried forward into following year	157	44

38. The pattern from previous years continued with parents being the single largest group of objectors. The remainder came in almost equal proportions from members of the public and a national campaign body; smaller similar proportions came from schools and local authorities; and a very small number from appeals panels; a parish council; a village society; and a second national body. Once again a significant number of the referrals from parents were made as a result of their child not securing a place at the school they would most prefer. The adjudicator has no jurisdiction to consider the circumstances of an individual child, but sometimes a parent is so concerned about what has happened, that they seek to influence the arrangements for a future year, and when an adjudicator looks at the arrangements it is found that they do not comply with admissions law and the Code. If the referral related only to the 2014 arrangements once the arrangements had been brought to the OSA's attention an adjudicator would then also consider the 2015 arrangements. In some cases this resulted in a determination that required the admission authority to bring its arrangements into line with the Code.
39. A trigger for some objections has been that the objectors said they did not know that the arrangements they had believed would apply had in fact been changed.

They said they had not been aware of any consultation taking place. Other objectors complained that they had been unable to find a school's admission arrangements on its website. Some of those objecting close to or after 30 June said that the arrangements had not been available any earlier.

40. On **consultation**, the Code sets out clearly in paragraphs 1.42 to 1.45 when consultation on admission arrangements is required and who must be consulted. Admission arrangements cannot be changed without consultation except in very limited, specified circumstances. Consultation when required, must take place for a minimum of eight weeks between 1 November and 1 March of the determination year. The groups to be consulted are specified in the Regulations and the Code, one of which is, *“parents of children between the ages of two and eighteen resident in the relevant area.”*
41. It is the responsibility of the admission authority to ensure the requirements for consultation are met, especially with the groups most affected by changes to arrangements, that is parents of children of the stated age range. If an own admission authority school takes part in consultation carried out by the local authority, it is still for the school to be sure that the requirements of the Code are met. It is not sufficient to say that the arrangements were posted on the school's or another website, or parents of children at the school were given a letter as it is not just those parents but also the prospective parents for the following year, especially those who will be applying for a reception year or year 7 place the following year, who need to be alerted and consulted. Some admission authorities have communicated effectively with prospective parents by placing notices in places such as local health centres, playgroups and supermarkets. Others seem to have assumed, wrongly, that the onus is on parents to check frequently the school's website just in case it is considering changing its arrangements. If an adjudicator has to consider an objection to a school's arrangements the first questions asked will be about when the arrangements were last consulted on and what responses were received to that consultation. It is a matter of considerable concern that when a school decides to change its arrangements and allegedly receives no responses to a matter such as a different order of priority for siblings or changing the catchment area the admission authority does not question whether it did consult effectively. The final sentence in paragraph 1.45 of the Code, *“Failure to consult effectively may be grounds for subsequent complaints and appeals”* has proved all too true this year.
42. Admission authorities are required to **determine their arrangements** every year by 15 April for admissions in the following year. A major issue again this year has been the number of own admission authority schools, both new and old, that when an adjudicator begins to investigate the case are found not to have determined their arrangements as required by 15 April. The requirement for

arrangements to be determined is for *every* year, irrespective of whether or not they have been changed. The admission authority must also ensure that its decision to determine its arrangements is recorded formally in the minutes of the relevant meeting.

43. A school that changes its status during an academic year needs to be particularly vigilant in ensuring that it has lawfully determined admission arrangements. Furthermore, a school cannot suddenly change its arrangements on changing its status without following the requirements concerning consultation before determining its arrangements.
44. The Code sets clear requirements for the **publication of admission arrangements**. When adjudicators begin to investigate a case they usually look at the school's website and do so whenever possible before the admission authority has been informed about the objection. Frequently the adjudicator is unable to find the admission arrangements displayed as required by paragraph 1.47 of the Code which says, "*Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the academic year in which offers for places are made).*"
45. Local authorities usually have the admission arrangements for community and voluntary controlled schools published as required, but do not always, from 1 May onwards, show or indicate where the arrangements for own admission authority schools can be found. Some schools that are their own admission authority meet requirements fully. Typically the websites of such schools have a tab labelled "admissions" and they show, in accordance with the Code, the arrangements for the current admissions round and those that have been determined by 15 April of that year for the following year. In the calendar year 2014 this means that anyone looking at the school's website after 15 April should have seen the arrangements for 2014 and those for 2015. For a secondary school for pupils from age 11 and with a sixth form, the arrangements for each "relevant age group" means the arrangements for admissions to year 7 and year 12 have to be displayed.
46. Also, if the school uses a supplementary information form that too must be included with the admission arrangements and if a secondary school has a sixth form any form it uses must also be published in full. Each own admission authority school must show on its website all the information a parent needs to understand the school's arrangements. If, for example, the school has a catchment area for which a map is necessary to understand the limits, a parent must be able to know exactly what the area is without having to go to the school to look at a map or ask the school to send a copy. If the school is designated as having a religious character, "a faith school", everything a parent needs to know

about how to satisfy any faith requirement must be displayed with the arrangements on the school's website. That is, any supplementary information form and anything else such as a priest's reference form or guidance notes. Any document or action that is necessary to meet a faith-based oversubscription criterion, and without it a child would not be eligible to have priority on grounds of faith, is part of the admission arrangements so must be displayed on the website and must comply with the Code.

47. Despite the clear requirements set out in the Code it remains the situation that anyone looking for admission arrangements on a school's website may have to hunt very carefully to find where the arrangements may be located. If eventually they are found they often do not include the year to which they apply so parents and the adjudicator are left not knowing whether these are the arrangements that will apply for admission of children in the following year. In some cases despite extensive searching of a school's website no relevant arrangements can be found. All own admission authority schools must publish their arrangements on their website or if they do not have a website must make clear where their arrangements can be seen. The governing body of a community or voluntary controlled school for which the local authority is the admission authority has responsibilities set out in the School Information (England) (Amendment) Regulations 2012 about what it must have on its school's website about admissions.
48. Too many schools, both maintained and academy schools, that are their own admission authority, are failing to comply with the duties placed on them about admissions. Parents and everyone else are denied the opportunity to see the school's arrangements and, if they think it necessary, to object on time if the arrangements appear not to comply with admissions law and the Code. Schools that have the status of being their own admission authority have many responsibilities placed on them and with that status comes the duty to take the responsibilities seriously and with respect to admissions to comply with admissions law and the Code.
49. Adjudicators continue to find that when they investigate the admission arrangements for a school with a **sixth form** the arrangements for admission to the sixth form do not comply with the Code. The same matters of non-compliance persist, these include: no admission arrangements even though the school does admit students new to the school into year 12; incomplete arrangements, for example no published admission number; no priority for looked after and previously looked after children; an application form that asks for information prohibited by the Code and details about the applicant that are not relevant until the student joins the school. Sixth form admission arrangements are often even harder to locate than those for year 7. Schools that admit students to their sixth form must have an admission number (that is the number

of places that will be allocated to students new to the school). Many schools seem not to understand the difference between an admission number for external students and the capacity of the sixth form for all students, both internal and external, in both year groups.

50. Far too many schools persist in thinking that the Code does not apply to admissions into the sixth form. While schools make use of the permission in paragraph 2.6 of the Code which says they “*can set academic entry criteria for their sixth forms, which **must** be the same for both external and internal places*”, they do not comply with the general requirements about admission arrangements. The school must not, for example, include anything for year 12 admissions that would be unlawful if included in the arrangements for admission to year 7. It **must not**, for example, ask questions about language spoken at home; require a financial deposit; ask the applicant or applicant’s current school to provide information or a report about behaviour or attendance. The Code at paragraph 2.6 goes on to say, “*As stated in paragraph 1.9 m) above, any meetings held to discuss options and courses **must not** form part of the decision process on whether to offer a place.*” While a discussion about the course or subjects a prospective student may wish to follow is permitted, this meeting cannot be used to decide whether or not to offer a place. Similarly, as a child or the child’s parent can apply for a place, a school cannot require both parent and child to attend a meeting or both to sign the application form.
51. Students who wish to consider exactly where to continue their sixth form education in a school should be able to find out easily where there are places available, the number of places, whether there are any academic criteria for entry and if the school is oversubscribed what oversubscription criteria will be used to allocate the places. Schools with a sixth form that do not meet the requirements of the Code in relation to publication of their admission arrangements or comply with the mandatory requirements of the Code are failing pupils who are trying to make decisions about their continuing education.
52. Last year adjudicators reported that local authorities rarely complied fully with the requirement to include details about admissions to sixth forms in a composite prospectus. Paragraph 14 of schedule 2 to the School Information (England) Regulations 2008 makes clear that the determined admission arrangements for admission to a school above compulsory school age have to be provided in a composite prospectus. Local authorities were asked through the report template how they meet this requirement and the findings are given later in this report.
53. Objections about the arrangements for admission to the reception year of both primary and infant schools and for the transfer to junior and secondary schools have again included problems relating to **catchment areas**. There have been two aspects to the objections, first a catchment area that has worked well for

many years may no longer give all the children living within the designated catchment area high priority, indeed a near guaranteed place, at their local school as the number of children in the area has increased, and secondly a catchment area has been changed without a thorough consultation following sufficiently careful consideration of what the change should be.

54. The effectiveness of policies where all children may have been almost certain to have a place at their local school may also be affected if some schools become their own admission authority and change their arrangements. I repeat the concerns expressed last year where all children in an area have had priority for a catchment area school and there has been sufficient flexibility to gain a place at an out of catchment school if preferred. An increase in the number of children in an area may mean that such flexibility and choice are not possible in future. This is especially the case where priority is also afforded to siblings. Where a primary school, for example, has become its own admission authority and decides to give priority to all siblings whether living in or out of the catchment, there is a danger that first born or children new to the area will not gain a place at the school, their local school, nor will they have priority for any other catchment area school. Those who benefit from priority for more than one school are content; those without priority for any school understandably find the arrangements of their catchment area or nearest school unfair.
55. Objections have been made concerning priority for **siblings**, particularly if all younger siblings have very high priority for a place at a popular and oversubscribed school such that it becomes difficult for a first-born to gain a place unless living almost next door to the school. The advantages for one family of keeping siblings at the same, popular school lead to disadvantages for other families who may then end up with children in different schools. Some of the objections might have been avoided if the admission authority had taken more care in considering the impact of the proposed changes in its arrangements, completed some modelling of the effect of the changes, and consulted properly with parents so that through its consultation it ought to have been able to allay any fears the parents may have expressed.
56. There have again been objections to, and referrals about, the arrangements for admission to the reception year that give priority for a place to children who attend particular **nursery provision**. In each case adjudicators took account of the circumstance of the school and the named nursery provision. The Code does not give permission for any priority for children who have attended any nursery provision and neither does it have a specific prohibition on giving priority. The arrangements must therefore be tested against the general requirements for all admission arrangements, especially paragraph 14 of the Code which says, *“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places*

are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” The arrangements must also be tested against specific prohibitions, for example, whether the school or any associated organisation gains any financial support from parents. In the 26 cases received in 2013/14 and completed the arrangements have been found not to comply with the Code.

57. Objections concerning **starting school for the first time** have been made again this year. Some are because a school refuses to provide a full-time reception place from the September after the child's fourth birthday and others are from parents who wish their child to delay entry to the reception class for a full year.
58. The Code at paragraph 2.16 makes clear that it is for the parents to decide whether their child attends school prior to reaching compulsory school age and if so, whether attendance is full or part-time. Schools must make full-time provision available from the beginning of the autumn term of the school year in which the child reaches compulsory school age, the September following the child's fourth birthday. Some schools provide an induction period such that it appears schools dictate the sessions for which children can and cannot attend school, including setting requirements that contravene a parent's right to full or part-time or deferred schooling contrary to the requirements of the Code.
59. The Code at paragraph 2.17 refers to the admission of children outside their normal age group. Sometimes the phrasing in the admission arrangements about the way a request for delayed admission should be made is not as clear as it ought to be. The Code specifies that the admission authority **must** make decisions on the basis of the circumstances of each case. Sometimes there are also misunderstandings among parents about the consequences of delaying admission to the reception year for the child's future schooling. I invited local authorities, if they collect such information, to include data in their annual report to the OSA on the number of requests received in their area for admission of children outside their normal age group. A summary of the responses is included in the second half of this report
60. The **complexity** of some schools' admission arrangements continues to be a matter of concern. The admission arrangements determined by local authorities for community and voluntary controlled schools as observed by adjudicators when considering an objection to those arrangements or looking at a composite prospectus to find the arrangements for own admission authority schools, are almost always clear and straightforward so it is easy to understand how places will be allocated. The arrangements of schools that are their own admission authority may be equally clear and uncomplicated, but frequently are less clear and more complicated. The clearest, easiest to understand arrangements typically have between three and six oversubscription criteria with, as required by

the Code, a suitable tie-breaker if more than one child has equal priority for the last available place. However, arrangements set by some own admission authority schools are complicated and often it is unclear how the arrangements are actually applied. The complex arrangements compared with the clearest have some or all of: numerous oversubscription criteria and sometimes sub-categories within them; different categories of places; more than one catchment area; feeder schools; tens of points available and needed to gain priority; banding and therefore tests to be taken; aptitude assessment; and several faith-based oversubscription criteria.

61. For popular schools that set complicated arrangements, especially if they include tests for banding purposes and/or for places allocated for aptitude and/or selective places the first hurdle in gaining a place is to take the test. This may mean taking different tests on more than one Saturday if the schools being considered as preferences each set their own tests unlike those local authorities where one test is used by all the selective schools. In order to be clear the arrangements need to be explicit that looked after and previously looked after children do not have to take the banding test to have highest priority for a place at that school. The complex arrangements, especially some with points systems, risk falling far short of meeting paragraph 14 of the Code which says, *“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”*
62. Schools designated as having a religious character may include **faith-based oversubscription criteria** that can be applied if the school is oversubscribed. The relevant faith body has an important role in ensuring that the guidance it gives about admissions, especially about the oversubscription criteria, takes account of the requirements set out in the Code. There are examples of clear and precise guidance that includes a limited faith requirement and a short, clear specimen supplementary information form. Other examples of guidance have not been amended following the publication of the 2012 Code, and offer supplementary forms of several pages that include matters which do not comply with the Code. There have been many objections and referrals concerning the admission arrangements of faith schools this year. Some cases have been about matters other than the faith-based oversubscription criteria, for example, priority for children attending the school’s nursery; others have been to the faith criteria and whether the practice specified complies with the Code; others have queried exactly what is required to meet the faith-based oversubscription criteria so that a child can gain priority for admission to the school. Some of the schools with a religious character have faith-based oversubscription criteria with faith requirements that are extensive and require a parent to be well organised and study the arrangements carefully, sometimes several years before applying for a place, to ensure that their child will have a realistic chance of gaining a place at the school. The Code at paragraph 1.37 says, *“Admission authorities **must***

ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.” Admission authorities need to look carefully at their faith-based oversubscription criteria and ensure they comply with this requirement.

63. I commented last year on the impact of one of the amendments to the School Standards and Framework Act 1998 by the Education Act 2011 that increased the range of people and bodies eligible to object to admission arrangements so that any person or body can object. Referrals have been made again this year by national bodies and by members of the public that would not have been accepted under the last Code. Regulations require that the name and address of an objector are known to the adjudicator. This has meant that some objectors have requested that their name should not be made known to the admission authority or other parties. This is understandable in the case of a parent objecting to the arrangements of a local school, but we remain concerned that anyone else should wish to remain anonymous. Objectors do not have to give a reason why they are making an objection, only what it is about the arrangements that they believe contravenes the Code.
64. One national campaign group submitted four objections early in the period when objections are usually made and a further 74 on 30 June, the last day for lodging objections. Of these, 27 were withdrawn before being recorded as a case, but 47 remained to be determined. In most of these cases, the objections have typically been partially upheld as the schools have not met the general requirements of the Code, for example, because they do not include a final tie-breaker in the arrangements, or the supplementary information form asks for information that is not required to apply the oversubscription criteria or by asking for information that is specifically prohibited, for example, personal details about parents and families.
65. Other matters that have been considered by adjudicators include: a lack of clarity about priority for, or inaccurate definitions about, looked after children and previously looked after children; priority for attending feeder schools when the specified schools are a type of school not a named individual school, or schools have not been chosen on transparent and reasonable grounds; aptitude tests that test ability and not aptitude in the specified subject; a waiting list not provided for as required by paragraph 2.14 of the Code; and schools reducing their published admission number when the places are needed in the area. Two matters where objections were not upheld concerned the inclusion of priority for pupils eligible for the pupil premium; and the lack of inclusion of certain oversubscription criteria that the objector wished to have included. In all cases the arrangements have been considered and a judgement made against the requirements of admissions law and the Code.

66. An emerging issue, but outside the OSA's remit, is concern about the forms that own admission authority schools are using for in-year applications. Some that have been seen in the course of investigating an objection include requests for information about matters which it is difficult to understand why a school should be asking such questions. If a place is available a child seeking a place should be admitted, but at times the impression has been gained that even if the school could accommodate an extra child, it would be considering whether it wished to give that particular child a place.
67. Overall, we have found that a number of schools when they received an objection to their arrangements were anxious to, and did, put matters right as quickly as possible. Others have been reluctant to change and comply with the Code. Questions remain: why do some schools decide to have complex arrangements? What is their aim? Also, when the vast majority of cases considered by an adjudicator have been found to have at least some aspects that do not comply with the Code, even if the objection itself was not upheld, how confident can we be that the arrangements for other schools do not contravene the Code and are fair for all children?

Variations to determined admission arrangements of maintained schools

68. During the year adjudicators have considered 35 new requests for a variation to an admission authority's determined admission arrangements, an increase on the 21 in 2012/13, but still a significant reduction on the 60 in 2011/2012. Six cases have been carried over into 2014/15, compared with four last year. Of the 33 completed cases, 24 variations were approved; two were approved with modifications, six were out of jurisdiction and one was withdrawn.
69. Once determined for the relevant school year admission arrangements can only be varied, changed, in limited, specified circumstances. The Code sets out the circumstances in which an admission authority may itself vary its arrangements, for example, to comply with a mandatory requirement of the Code. An admission authority may also propose a variation if it considers there has been a major change in circumstances, but such proposals must be referred to the Adjudicator.
70. Requests for a variation for an academy school does not have to be made to the adjudicator but to the EFA to decide on behalf of the Secretary of State. Uncertainty among schools about who does what has continued to be evident in enquiries to the OSA about making a variation for academy schools.
71. A request for a variation is a relatively rare event and if an admission authority believes one to be necessary then it usually needs to be dealt with sooner rather than later. When requests are received by the OSA for an academy school the admission authority has to be redirected to the EFA and the process inevitably

takes longer. There have been incidents during the year that might have been avoided if, as for objections, the OSA also dealt with all requests for a variation.

72. A variation is no longer required if an admission authority wishes to increase its published admission number. Some variations concerned a decrease in an admission number allied to a change in age range, for example, of an infant and a junior school to both become primary schools, but with the effect that overall there will be an increase in the number of places in the area.
73. The most common variations have been changes to catchment areas and the way distance is measured. The increasing demand for places has meant that whereas previously all children in a catchment area could be almost certain of being allocated a place if they wanted one, this no longer applies. In order to give children a high priority for a school place at their catchment school some redrawing of boundaries has been necessary.
74. The Code obliges an admission authority to notify relevant bodies of proposed variations. The difficulty reported previously of being able to verify that an admission authority had met the notification requirement has been much less of a concern this year. It has been common to find that the admission authority exceeded the requirement for notification and, wisely where time permitted, consulted on changes that it was proposing to make via a variation to its determined admission arrangements.

Directions to maintained schools to admit children

75. Under Sections 96 and 97 of the School Standards and Framework Act 1998, in certain circumstances, the admission authority for a maintained school may appeal to the Schools Adjudicator if notified by a local authority of its intention to direct the school to admit a child and the admission authority does not wish to do so. If a local authority considers that an academy school would be the appropriate school for a child without a school place and the academy school does not wish to admit the child, the local authority may make a request to the EFA to direct, on behalf of the Secretary of State, that the academy school admits the child.
76. During the school year 2013/14 the OSA received 16 referrals. All cases were resolved during the year. Of these cases, one was withdrawn, seven were out of jurisdiction, in six the appeal from the school was not upheld and the local authority was given permission to direct the school to admit the child, and in two the appeal was upheld and permission to direct refused.
77. Since directing a school to admit a child is the measure of last resort to provide a school place for that child it is good to find that the number of cases has remained low. The same problems, however, have arisen this year as previously

resulting in a case being out of jurisdiction because the terms to be met before a local authority gives notice of its intention to direct the school to admit the child had not been met. Paragraphs 3.16 to 3.21 of the Code set out the procedures to be followed when the local authority intends to direct a school to admit a child and provide references to the relevant parts of the School Standards and Framework Act 1998. The terms of the Act are precise and say at section 96(1), that the local authority may direct if “... *either (or both) of the following conditions is satisfied in relation to each school which is a reasonable distance from his home and provides suitable education, that is – (a) he has been refused admission to the school, or (b) he is permanently excluded from the school.*” It is not sufficient to have followed the authority’s fair access protocol and move to direct without evidence of having complied with the above and other statutory requirements. Regrettably failure to have met the terms of the Act can result in a child being out of school for longer than would otherwise have been necessary.

78. There have been no instances this year of misunderstandings about the time allowed for making an appeal, namely, 15 days, or seven days in the case of a looked after child. In both circumstances the days are consecutive days and do not take into account weekends and holidays. It has been a matter of concern that some of the appeals amounted to little more than not wanting to admit the child rather than there being any valid reason for the appeal.
79. Last year I tried to establish how often a direction takes place without recourse by the admission authority to the adjudicator. As part of the information requested in the annual reports from local authorities each authority was asked how many children had been placed in a school as the result of a direction. This information has been gathered again for 2013/2014.
80. From the 152 local authorities, and for all types of schools, 14 children of primary school age (up from five last year) and 21 of secondary school age, (the same as last year), were admitted to a school as the result of the school being directed to admit the child. The use of the fair access protocol provisions before resorting to a direction continues to work to good effect to provide places for children without a school place.

Statutory proposals

Discontinuance and establishment of, and prescribed alterations to, maintained schools

81. During 2013/14 the number of statutory proposals referred to the OSA rose to 20 compared with 14 in 2012/13. This level is in line with the number expected taking into account the number in recent years. There was one case carried forward from 2012/13 and one new case was withdrawn. Of the 18 decisions

issued 15 proposals were approved, one was approved with modification and two were rejected. Two cases have been carried forward to 2014/15.

82. The types of cases were more varied this year. The adjudicator is the decision maker for proposals to discontinue community infant and junior schools and to establish community primary schools, often called amalgamations. Of the 11 cases referred to the adjudicator ten were approved and one rejected. The adjudicator also becomes the decision maker where the local authority is designated as first decision maker and has made a decision within the statutory period, but the governing body appeals against the decision by asking the local authority to refer the case to the adjudicator. In the one case of this type the adjudicator upheld the appeal.
83. There were two cases concerning a change of category, one from foundation to voluntary aided and the other from voluntary controlled to voluntary aided: both were approved. In two other cases, one school proposed the addition of a sixth form and another the removal of its sixth form: both were approved. Approval was also given to the establishment of a nursery school.
84. During the course of the year there were new regulations governing the discontinuance and establishment of schools and for making a prescribed alteration to a school. The variety of cases and the need to be sure whether the old or the new regulations and statutory guidance were to be applied kept adjudicators busy in this area of our work.

Land transfers for maintained schools

85. Disputes about the transfer of land when a school changes category or acquires a foundation make up a small part of the OSA's work, but are as time consuming as they have been ever since such work was added to the remit of the adjudicator through the Education and Inspections Act 2006. Three cases were carried forward from 2012/2013 and six new referrals were received. Three determinations were issued and six cases remained to be resolved.
86. Although the transfer of land takes place by operation of law when a community school becomes a foundation school, if there is no agreement as to which land should transfer within six months of the change of status occurring either party may apply to the adjudicator for a direction to resolve the disagreement. One case, as in each of the last two years, was referred to the OSA when it was not clear who could or should deal with the issue as the matter seemed not to have been resolved many years ago and the relevant body to provide the legally binding decision no longer exists. All the parties agreed that an adjudicator could make a necessary binding decision on the matter about which there was no dispute, but the parties needed to have someone who was independent to make and publish the decision.

87. The cases have been varied and included disputes over caretakers' houses, children's centres and land that no-one wanted. The cases can also take a long time to reach a decision as it can be difficult to obtain the necessary information from the parties. It seems likely that the number of cases will remain small and, as said previously, will continue to present adjudicators with unusual and unexpected circumstances about which to make a decision.

Summary of Local Authority Reports 2014

88. Section 88P of the School Standards and Framework Act 1998 requires all local authorities in England to, “... *make such reports to the adjudicator about such matters connected with relevant school admissions as may be required by the code for school admissions.*” Paragraph 3.23 of the Code stipulates that, “*Local authorities **must** produce an annual report on admissions for all the schools in their area for which they co-ordinate admissions, to be published locally and sent to the Adjudicator by **30 June** following the admissions round.*” The Code also sets out in the same paragraph what must be included as a minimum and these matters are summarised below.
89. Local authorities are invited to complete a template that covers those matters the Code specifies must be included in their reports. As previously, I have sought additional information to enable me to write on issues I think it would be useful to include in this report to the Secretary of State for Education. I have also included topics suggested by local authorities.
90. This year 113 local authorities, compared with 132 last year, met the requirement to submit their report on time and all 152 had been received by 25 July, a better response than in any previous year. Although fewer reports were submitted on time this year, the others were not much delayed and OSA officials were not required to issue frequent reminders. Submission of reports by the date specified in the Code is greatly appreciated at a time of the year when OSA staff are most busy with casework and, I know, local authority staff are busy with appeals.
91. This summary of the reports is based entirely on what local authorities say is happening in their area. While asked to write about what is specified by the Code they are also invited to mention other matters if they wish. Some of what they say echoes closely what adjudicators have found when dealing with objections about admission arrangements. Other matters continue to be raised, such as appeals, about which the OSA has no first hand evidence as they are matters outside our remit. The requirement for the OSA is to summarise what local authorities report and not to undertake exercises to gather evidence to corroborate the findings.

Specific groups

92. The Code requires local authorities to provide information about how admission arrangements for schools in their areas serve the interests of: **looked after children and previously looked after children; children with disabilities; and children with special educational needs, including any details where problems have arisen.**

Looked after children and previously looked after children

93. All local authorities report that, as required by the Code, looked after children and previously looked after children are given the highest priority in the oversubscription criteria for admission to schools in their area. Only two local authorities feel that the interests of looked after children are less than fully served, although ten express some concerns about how well the interests of previously looked after children are met. A small number of local authorities report that despite advice to prioritise previously looked after children in their admission arrangements, some own admission authority schools have failed to make explicit mention of them and that the designation of these children is not always accurate. Nevertheless, most local authorities paint a positive picture with several praising the willingness of schools to admit looked after and previously looked after children, sometimes above published admission numbers, when a school is deemed the most suitable provision by the local authority.
94. Differences reported last year between local authorities' and own admission authorities' understanding of who qualifies as a previously looked after child have decreased but are still mentioned in a few local authority reports. Once again, a small number of local authorities report instances of individual parents either not fully understanding or not accepting the limits of the designation of previously looked after children. One authority reports difficulties caused to a number of applicants for year 7 admissions who discovered that the timing of their child's adoption meant they would not have priority admission to their preferred school when the local authority followed initial advice from the DfE on the designation of previously looked after children. This problem was resolved by subsequent non-statutory guidance issued by the DfE in May 2014, welcomed in a number of local authority reports, stating that priority admission should be given to all children adopted from care who are of compulsory school age and not just those adopted from care under the 2002 Adoption and Children Act.
95. An issue raised by a small number of local authorities concerns the disappointment expressed by parents of children adopted from overseas, who feel that their children are discriminated against by the current definition of a previously looked after child. In response to enquiries from these local authorities, the DfE confirmed that ministers' intention was for this provision for priority admission to apply to those children previously looked after by a local authority in England or Wales only.
96. A number of local authorities comment on the efforts made to ensure that previously looked after children are identified during the admissions process and so given priority for a school place. However, one on-line application form provided to local authorities by a private company did not include a question whereby parents or carers could indicate that their child had previously been in

care. Although the opportunity to include text supporting applications was potentially helpful in identifying these children, if parents or carers were unaware of the priority given to previously looked after children they may not have mentioned the child's history in their application. Ensuring that common application forms collect all necessary information, while remaining clear and straightforward, is a small but significant concern for some local authorities. Some parents continue to express concerns about issues of confidentiality; some are worried also about how to respond to other parents' queries about how a previously looked after child, unknown as such to them, has been allocated a place at a popular and oversubscribed school. However, relatively few concerns of this nature are reported this year, further reinforcing the generally positive assessment of how the priority admission of looked after and previously looked after children is working as intended by the Code.

97. Many local authorities have again praised good outcomes achieved through collaborative working between admission teams, social workers and others with responsibilities for looked after and previously looked after children. Such effective liaison continues to ensure that children who need a place outside the normal admissions round, for example, are found an appropriate school place as quickly as possible.
98. In contrast with this positive picture, a small number of reports mention occasional difficulties in obtaining confirmation, particularly from other local authorities, that a child was previously looked after and that s/he has a relevant adoption, residence or guardianship order that meets the required legal definitions. Obtaining the necessary paperwork is often time-consuming and causes delays to the admission process, including decisions about which school would be the most suitable for the child.
99. As in previous years a number of local authorities express concern that some schools designated as having a religious character give priority, as permitted by the Code, to looked after, previously looked after and all other children of the faith before looked after and previously looked after children not of the faith. This may result in it being difficult, or even impossible, for a looked after or previously looked after child other than of the faith to be admitted to some popular, high achieving faith schools.

Children with disabilities

100. The majority of local authorities report that they include exceptional social, medical or physical conditions as an oversubscription criterion within their admission arrangements for community and voluntary controlled schools, and some give this criterion a high priority. Admission authorities usually require any such application to be supported by evidence from a relevant professional, including any reason why the child should have a place at a particular school

rather than at any other school. A few local authorities make no such provision, arguing that children with a statement of special educational need as a result of any disability are prioritised and fully supported through the admissions process. A number of own admission authority schools include a social, medical or physical oversubscription criterion in their arrangements, although many do not. There is no firm evidence that children are disadvantaged by the lack of this criterion in these admission authorities' arrangements, although at least one local authority reports that it feels the need to agree a protocol for the admission of such children that it hopes will become part of future local admission procedures. Another local authority reports some difficulties with negotiating the in-year admission of such children through the fair access protocol. Although such difficulties are eventually overcome, delays in the process prevent children accessing in a timely way the provision they need.

101. A number of local authorities report continued efforts to adapt buildings so that more schools are made fully accessible to children with disabilities. One local authority reports that as all its schools can provide for children with disabilities there is no need for any admission authority to include specific priority for these children in their arrangements.
102. Some local authorities express concern at the lack of or in the level of priority given to children with disabilities in the arrangements of own admission authority schools. In a substantial number of these schools, the priority may be second only to looked after and previously looked after children, whereas many faith schools in particular give priority to all children of the faith before giving priority to other children not of the faith who have social, medical or physical needs. The situation is thus similar to that described above concerning looked after and previously looked after children. If the school is oversubscribed with children of the faith then children with social, medical or physical needs who are not of the faith of that school may not be offered places, irrespective of the suitability of the school for their particular needs.

Children who have special educational needs

103. The vast majority of local authorities report that the interests of children who have a statement of special educational need that names a school are met fully and that there are seldom difficulties in ensuring that admission authorities comply with the legal requirement to admit such a child. However, two local authorities report that some own admission authority schools are not fully conversant with the requirements either of their funding agreement or of relevant legislation concerning provision for children with a statement of special educational need; such schools are occasionally reluctant to admit a child with a statement that names the school. It is necessary to repeat again this year that no school in this

situation has the option to refuse, or try to refuse, to admit the child to the school, unless it is an academy exercising the right to appeal to the Secretary of State.

104. Most local authorities report that children who have a special need, but do not have a statement, may be admitted to a school under a social or medical criterion, or there may be occasional use of a fair access protocol. A few comment that this process is not always easily negotiated, especially with own admission authority schools and those schools that do not consider they have the appropriate resources to support such children. More positively, many local authorities state a general expectation that all schools are able to meet most children's special needs and that it is not thought necessary to specify a particular placement. However, some authorities continue to encounter confusion among parents and other professionals about admission arrangements for these children when there may be unrealistic expectations about priority for admission. A growing concern in some local authorities is the challenge of families arriving from other countries who have children with special educational needs but without a statement that is recognised as valid. It is reported that many schools are increasingly unwilling to admit such children because they have then to begin the statementing process; the child remains out of school, sometimes for an extended period, while difficult negotiations take place between the local authorities and the school. That problem aside, the majority of local authorities emphasise the effective work that is done to ensure all children with special needs are admitted to a suitable school as quickly as possible. A number involve special needs and early years inclusion teams, alongside other appropriate professionals, to assist in placing children swiftly in the appropriate setting.

Fair Access Protocols

105. This year all local authorities but one confirm that they have a Fair Access Protocol (the protocol) agreed with the majority of their schools. The one exception has only one school but reports that it is working with the school to keep its admissions policy under review and to develop a protocol, even though all children within the local area implicitly attend that one school. Only 12 local authorities had not reviewed their protocol since the 2012 Code was introduced, and all 12 intend to do so in 2014/15.
106. Most local authorities have again agreed the protocol with all schools, although there has been a significant increase this year in the number of schools not agreeing the protocol, spread across almost one in six of local authorities. A number of authorities report difficulties in negotiating and agreeing protocols with own admission authority schools, including academies. It remains true that relatively few schools overall have refused to agree the local protocol but the distribution of these is of some interest. Data submitted indicate that a protocol

has not been agreed with 347 out of 16,863 primary schools, 89 out of 3,220 secondary schools and four out of 519 all-through schools. These data show that just 2.0 per cent of all primary schools and 2.8 per cent of all secondary schools have not agreed the protocol with their local authority. However, for primary academies and free schools, the proportion of schools not agreeing the protocol is 3.7 per cent and for secondary academies, free schools, University Technical Colleges and studio schools the proportion is 3.6 per cent. The proportion of maintained schools in the primary sector that had not agreed the protocol is 1.8 per cent and of maintained schools in the secondary sector is 1.6 per cent. The proportion of schools not agreeing protocols is thus considerably greater among academy schools, more than twice the proportion of maintained schools, in both phases. Despite what some schools appear to believe, they are all bound by the protocol that applies in their authority whether they have formally agreed it or not.

107. Local authorities were asked to assess how well the protocol has worked during the year in placing children without a school place without undue delay, and to give the number of children placed using the protocol.
108. Data from the reports show the total number of children admitted to a school using the protocol, the number refused a place and the number admitted via a direction.

Table 2: Use of Fair Access Protocol

	Primary	Secondary	All-through	Total
Admitted via the protocol	8,474	8,824	348	17,646
Refused admission	235	609	13	857
Admitted via a direction	14	21	0	35

109. The number of admissions of primary age children using the protocol shows some increase from the previous year's figure of 7,874 as does the number of primary age children refused admission, which in the previous year was 86. Although a few local authorities are unable to supply these data, and others express concern that data are incomplete, these are small numbers in the context of the total number of in-year admissions. Of a total of 279,838 places allocated to primary age children and 99,342 places allocated to secondary age children through in-year applications just 3.0 per cent of primary aged pupils and less than 8.9 per cent of secondary aged pupils had to be found a place through the protocol; just 0.005 per cent of primary pupils and 0.02 per cent of secondary pupils were found a place through a direction to admit. The increase in the numbers of children refused admission underlines the problems described by

some local authorities in persuading schools not merely to agree the protocol but then also to accept their part in making it work.

110. Overall, the data suggest that protocols are working effectively and this is borne out in comments from many local authorities. One authority says schools routinely admit children with challenging educational needs on a rota system to ensure fairness. Another notes that, with the arrival of increasing numbers of year 10 children who are new to the country and have not previously attended a school in the United Kingdom, two schools considered to have appropriate provision have undertaken to admit an agreed number of these students. Other reports refer, as previously, to the challenges schools encounter in admitting pupils to years 10 and 11. Several authorities report on helpful and successful collaboration with local colleges and alternative providers in putting together bespoke packages that enable young people to continue to participate in education and to achieve. Another local authority continues to devolve Education Otherwise Than At School (EOTAS) funding to secondary schools, allowing them to implement packages of support and tuition appropriate to the needs of individual children, especially those in years 10 and 11. While the admission of children in these year groups continues to pose most challenges to local authorities, there is overall a positive picture of innovative thinking and successful joint working.
111. The involvement of a range of agencies and providers is a common thread in reports from a number of local authorities where the implementation of protocols is seen to be improving in effectiveness. One, for example, has now based a secondary fair access panel on a previously established and successful primary model; the panel involves representatives of a number of social care, health and family based services. The local authority comments that this has had a dramatic effect on the willingness of schools, both primary and secondary, to admit children as the model involves practical collaboration with the child at the heart of the process.
112. Nevertheless, a number of local authorities report that not all schools are co-operative and that there is active resistance to the protocol from some. At one end of the spectrum, this resistance may be a relatively mild expression of disquiet when a school feels that, because it is not oversubscribed, it has been approached more frequently than other schools and so admits a high number of children who pose challenges. At the other extreme, there may be a more fundamental unwillingness, for example in a faith school, to admit children not of the faith through the protocol ahead of those of the faith who are on the waiting list. A few schools are reported to refuse to engage in consultation about, or to reply to repeated requests to indicate their agreement with the local authority's protocol. A small minority continue to think the process does not apply to them; as one local authority reported, particular clusters of schools did not agree to the

protocol as they felt they would be expected to admit children they were not willing to admit.

113. However, the majority of local authorities' reports show that overall the protocols are working well as part of the arrangements for in-year admissions to schools.

Effectiveness of co-ordination

114. Local authorities were asked to assess the effectiveness of co-ordination of primary and secondary admissions for September 2014. The vast majority report that, in their view, the co-ordination of the process for admissions to both primary and secondary schools has once again worked well, with half reporting that the process for primary admissions has worked better than previously. A national offer day is universally welcomed. Several local authorities link this to a general increase in the efficiency of the application process, with a higher take-up of online applications and the introduction of different means of communication, such as text services, to contact parents and carers.
115. A number of local authorities report a further improvement in the proportion of applicants being offered their highest preference school. Many make positive comments about improvements in the exchange of information with other local authorities and about the transparency that has been brought to the process when previously applicants might have been confused about when they would receive offers from different authorities.
116. The reports make numerous comments on several issues of common concern. Many local authorities mention practical difficulties that arose through the national offer day for primary schools having fallen during the Easter holiday period. This caused problems of communication and co-ordination between schools and local authorities where, for example, there were apparent anomalies in rankings; several authorities reported that schools which had only recently become their own admission authority were often in need of help in ranking applications in accordance with their oversubscription criteria. The timing of offers caused problems also for parents who wished to contact schools directly about a concern but had been unable to do so. There were delays in the acceptance of offers by parents who were on holiday at the time. Other issues relating to timescales include the request from a few authorities to shorten the period between the application deadline and the national offer date, while a similar number of larger local authorities feel that the existing timescale is quite demanding already, given the quantity of data they have to obtain and process.
117. Several local authorities would welcome the introduction of additional requirements into the application process. Several note that for many parents applying for places in reception year this would be the first time they have been involved in making an application for a school place and that a brief but intense national publicity campaign to highlight the application deadline would be valuable not only in reducing the overall number of late applications but in providing some additional support to vulnerable families which, a number of local authorities report, are responsible for a disproportionate number of late or incomplete applications. Many local authorities suggest that a required date for

the exchange of application data between admission authorities would facilitate the process for both primary and secondary applications, especially where an authority is part of a grouping such as Pan London but also has to deal separately with other authorities. A substantial minority of reports refer to delays caused by awaiting data from other local authorities while others feel that the lack of agreed timescales for late applications, changed preferences and new allocation rounds following the national offer day makes it difficult to help or advise parents applying across local authority borders.

118. In the secondary phase, most local authorities echo the comments about primary admissions. Where there are university technical colleges or studio schools, many report an improvement in the co-ordination of admissions, although occasionally these schools are admitting children directly despite being nominally part of the local authority's co-ordinated arrangements. A very small number of local authorities register their displeasure that neighbouring authorities accept applications from, and make offers directly to, applicants who should have been processed via their home authority. One authority complains that another issued offers in advance of the national offer day, thus causing confusion and some discontent among applicants who were, properly, still waiting to hear from their home authority. A very few reports suggest that the Code is ambiguous in stating when offers should be issued and query whether, when electronic systems allow the automatic despatch of mail at a weekend if that is when the national offer day falls, it has nevertheless to wait until the next working day to issue offers. This concern is reinforced by one authority which explains that it led to a number of applicants, who were able to receive offers only by post, hearing the outcome of their application some five days later than those who had been contacted electronically.
119. From September 2013 local authorities were no longer required to co-ordinate in-year admissions. I asked authorities this year to report for how many schools, and of which type, they would continue to co-ordinate. Reports show that 130 local authorities, or 86 per cent, will continue the co-ordination of in-year admissions to at least some schools, and the remaining 22 (14 per cent), will not co-ordinate for any schools.

Table 3: Local authority co-ordination of in-year admissions by age/school type

	Comm	VC	VA	Foun	Acad	Free	UTC	Studio	Total
Primary	6,347	1,444	1,769	399	1,212	47	0	0	11,218
Secondary	493	20	173	171	965	36	8	12	1,878
All-through	94	1	40	35	36	12	0	0	218
Total	6,934	1,465	1,982	605	2,213	95	8	12	13,314
(All schools)	(9,443)	(2,341)	(3,771)	(1,029)	(3,804)	(158)	(26)	(30)	(20, 602)

120. The table shows, not unexpectedly, that more than 70 per cent of community and voluntary controlled schools have chosen to remain with a local authority’s co-ordinated scheme for in-year admissions, whereas the proportion of other schools that has made the same decision is barely 60 per cent. While most authorities express a willingness to provide this service for schools, one comments that it prefers parents to deal directly with secondary schools, especially where the child is in year 10 or year 11, as they can engage directly with the provider in conversations about curriculum and examination courses. A number of other local authorities comment on what they see as the “logic” of own admission authority schools taking responsibility for in-year admissions.

121. There remains a requirement in paragraph 2.21 of the Code for local authorities to publish in the composite prospectus how in-year applications can be made. It is also essential for schools that are managing their own in-year admissions to comply with the requirements in paragraph 2.22 of the Code to keep the local authority properly informed and to tell parents of their right to appeal if informed that there is no place for their child. A sizeable minority of local authorities report concerns that schools fail to keep them updated promptly about in-year admission requests and outcomes, and that where vulnerable families in particular may be struggling to secure a place for a child local authorities are not made aware of this sufficiently quickly. This mirrors another anxiety raised by a much larger number of local authorities, that some children may be left without school places for an undue length of time, giving rise to concerns around issues of safeguarding. A different problem for several local authorities is that some own admission authority schools are making background checks on children for whom in-year admission applications are made before giving a decision; not only is this time consuming, but it may be non-compliant with the Code, not least if the school has available places in the relevant year group which therefore should be freely offered.

122. The data for the number of in-year admissions for 1 September 2013 to 15 June 2014 show a fall from the previous year from 392,462 places in 2012/13 to 379,813 places this year. I cannot say why there has been such a fall. If it is because fewer children have needed a place other than at the normal time for joining a school then the decrease is to be welcomed. If, however, the fall is because of the concerns expressed by local authorities about own admission authority schools not fulfilling the requirement to inform their local authority about places that are available and when they admit a child it is a matter of concern.

Admission appeals

123. Continuing the change introduced previously, local authorities were offered the opportunity to update information about appeals that had been submitted previously with their reports. I have received additional data from 55 authorities, slightly fewer than the 68 that updated data last year. Two small authorities reported no appeals, and six submitted no data at all. The number of appeals and outcomes reported to the OSA, summarised in Table 4, therefore shows an incomplete picture as there were numerous cases still to be resolved even at the time many local authorities updated their information.

Table 4: Appeals lodged following the offer of places for September 2014

	Lodged	Settled	Withdrawn	Heard	Upheld	Not Upheld
Primary	22,609 (23,853)	3,118 (4,511)	2,343 (3,501)	7,648 (12,486)	1,259 (2,527)	5,931 (9,495)
Secondary	21,348 (18,025)	2,548 (2,984)	1,808 (2,056)	13,467 (12,744)	3,196 (3,614)	10,016 (9,009)
Over 16	58 (78)	3 (1)	2 (1)	23 (6)	6 (1)	17 (5)
Total	44,015 (41,956)	5,669 (7,496)	4,153 (5,558)	21,138 (25,236)	4,461 (6,142)	15,964 (18,509)

124. The data can be used only to give an indication of the level of appeals, the stage in the appeals process that had been reached and the level of success of those appeals that had been both heard and the result logged at the time local authorities had to report to the OSA. Comparison with last year's data (shown in brackets in the table) shows a slight increase in the total number of appeals for a

secondary place and a slight fall in the number for a primary place, resulting in a slight increase overall. Considering only those cases reported as heard and a decision known, the proportion of appeals upheld for a primary place shows decrease from 20 per cent last year to 16 per cent, and for a secondary place a decrease in those upheld from 28 per cent to 24 per cent.

125. A number of local authorities comment that many parents are unaware of the limited reasons for which an appeal for a reception year place may be upheld where class size is an issue, and that considerable distress may result. Several authorities report that they would welcome permission for a 'paper panel' in such circumstances, to ensure a full hearing is held only where it is deemed there is a reasonable case to be considered.
126. Many authorities comment on the demanding timescale for the appeals process and the challenge, especially for own admission authority schools, to assemble impartial and skilled appeals panels. Several authorities report that many such schools continue to use local authority services, including legal advice, in the preparation and presentation of case documentation. Others mention difficulties caused by panels that misunderstand regulations or what is legally required in admission arrangements. However, very few instances of unresolved difficulties are mentioned although one authority reports two examples of schools refusing to accept children following successful appeals processed by the local authority. In one case, the school has requested a judicial review; in the other, the authority has begun the process of seeking enforcement from the EFA.
127. The demands on staff, time and resources in supporting the appeals process is constantly referred to in local authorities' reports. Although the appeals process was far from complete when local authorities submitted their reports, and despite some of the difficulties mentioned, the overwhelming impression is that local authorities are managing the appeals process diligently and with genuine concern for those applicants who wish to challenge decisions.

Other issues - from local authorities

128. The Code makes provision for local authorities to comment on any issues in their area that they wish to raise not already covered in the report.
129. Five matters have been mentioned more than any others, several of which are similar to those on which I reported last year:
 - a. anxieties about planning to meet the rising demand for primary school places, often exacerbated by the impact of new free schools; and academies that admit above their PAN;
 - b. the escalating cost of appeals for reception places;

- c. a request for central guidance to support the development of local protocols concerning the admission of children from overseas;
- d. the lack of information about in-year admissions provided by some own admission authority schools and academies; and
- e. shortcomings in the admission arrangements of own admission authority schools that do not fully understand their responsibilities and duties.

130. Yet again, the majority of local authorities that refer to additional specific issues mention their continuing difficulty in providing sufficient primary places. Some authorities comment that they find it difficult to plan for and to provide places where they are most needed when free schools are opened in areas where there may already be surplus places. Several authorities report transport problems, and cost implications for parents, as a result of new schools in what they see as the “wrong” location. Within London, many free schools are not part of Pan London co-ordination for their first year and this results in a considerable number of double offers and additional work for the London authorities’ admissions staff to confirm which places parents are taking up; in turn, this creates last-minute vacancies in other schools which can be difficult to fill. Other authorities report similar problems in both primary and secondary phases where the late confirmation of funding agreements for schools converting to academy status can lead to parents holding more than one offer of a school place, thereby affecting the efficient co-ordination of admissions across the area. In both phases, a number of local authorities report that they experience increasing difficulties in planning future provision when academy schools admit above their PAN. This may have a significant impact on neighbouring schools and a few authorities are concerned that, in extreme cases, established and good secondary schools may be under short-term threat in areas where, with increasing numbers of primary children entering the system, additional secondary places will be needed in the future. The hope I expressed last year that all schools will work constructively with their local authority to provide additional places as they are needed bears repetition now that local authorities are the admission authority for an ever-decreasing number of secondary schools.

131. The cost of appeals resulting from the allocation of reception class places is mentioned by a number of local authorities; not unexpectedly, this is especially a concern for those where there is greatest pressure on primary places. The costs involved may be associated with the delivery of appeal hearings both on behalf of the local authority itself and for those own admission authorities that request support. Authorities report concerns over the amount of time and effort consumed especially by appeals relating to refusals of places on infant class size grounds; this is not seen as a good use of scarce resources, as panels may uphold such appeals in only exceptional circumstances. A number of authorities

would welcome clear national guidance to applicants concerning the likely success of appeals in the context of infant class size regulations. Some authorities express concerns about the role conflict implicit in meeting their responsibilities to inform parents about the right to appeal, while not unnecessarily raising hopes or encouraging them to embark upon a potentially stressful and unsuccessful process.

132. A growing number of local authorities is having to deal with the admission of children from overseas, the majority of whom have little or no English and a significant proportion of whom have a background of poor or irregular school attendance. In addition, some of the families are very mobile, repeatedly moving between their home countries and the local authority. Even where there is effective collaboration between local authorities and schools, the latter can be reluctant to admit such children given the potential effect on the school's performance indicators, especially when the children require places in years 6, 10 or 11. A few authorities report on children from outside the United Kingdom being placed with host families as part of a commercial arrangement, for whom places are then sought at local state-funded schools for periods of up to a year. This practice in some cases prevents resident children from accessing their local school. Several local authorities raise the issue of how to check the identity and status of children from overseas in relation to specific criteria in admission arrangements, and safeguarding generally.
133. The fourth issue is a continuing anxiety about what may happen when the local authority no longer co-ordinates in-year admissions for all or any of the schools in its area. Some of these concerns have been touched on previously but two overriding issues that occupy local authorities are first, how to ensure that children out of school do not "*fall through the net*" and so become a safeguarding concern and second, the practice of schools in failing to apply admission criteria properly and making decisions about which children they will admit, and which they will not, on the basis of unspecified factors – what one local authority has described as "*a maverick approach*". Despite the generally healthy report on in-year admissions detailed above, these remain genuine concerns for local authorities, many of whom must rely on the professionalism of the schools themselves in keeping them informed about in-year admissions and in processing these admissions strictly in accordance with their determined arrangements.
134. Finally, I have to record again that many local authorities express concerns that academies, especially those that have converted from community status, and some other own admission authority schools, do not realise the importance of fulfilling their statutory responsibilities in respect of admission arrangements. A number of authorities report that they challenge what they regard as unacceptable admission procedures through direct interventions where

necessary, offering support and information for governing bodies through approaches such as workshops, briefing notes and other appropriate information. Many authorities want to see additional central guidance concerning admissions legislation and procedures provided to all schools assuming this responsibility for the first time.

Other issues

135. In response to some concerns that have emerged over recent years and were reported again last year I asked local authorities to comment on six matters. I invited comments on how local authorities meet the requirement in paragraph 3.23 of the Code to publish its report locally; on how they fulfil their responsibilities in objecting to admission arrangements that they consider unlawful as required by paragraph 3.2 of the Code; on their level of concern regarding fraudulent applications for admissions, and actions taken to prevent such applications; on issues relating to the admission of summer born children; on the steps taken to publish a composite prospectus for admissions to sixth forms; and on whether a local admissions forum has been retained since the Education Act 2011 removed this requirement.
136. **Publication of the report locally.** Following the requirement in the 2012 Code for local authorities to publish their report locally, most now indicate clearly on their website where the report may be found. All 152 local authorities say that they publish their report; 146 say it would be published on their website, of which 53 make it available in hard copy as well; six were issuing their report in hard copy only. A number of local authorities are prepared to email a copy of their report to those who request it in this format. The increasing practice noted last year where on a local authority's website there is a link from admission arrangements to their report to the Adjudicator has continued and is welcomed. A small number of local authorities failed to meet the required publication deadline of 30 June, mostly for technical reasons relating to website management, but in every case a target date for publication, generally within four weeks, was provided.
137. **Objections to admission arrangements by a local authority.** Paragraph 3.2 of the Code says, "*Local authorities must refer an objection to the Schools Adjudicator if they are of the view or suspect that the admission arrangements that have been determined by other admission authorities are unlawful*". Only a very few local authorities, four per cent, declared themselves "not confident" that all community, voluntary controlled and own admission authority admission arrangements were fully compliant with the Code. Half of all authorities were "confident" that this was the case, and 45 per cent were "very confident". In total, 721 sets of admission arrangements were queried across 64 local authorities; almost 60 per cent of these queries were raised by just seven local authorities.

Despite this generally positive picture 1,374 own admission authority schools did not meet the requirement of paragraph 1.47 in the Code to send the local authority a copy of their full admission arrangements, including any supplementary forms, by 1 May. Of this number, 44 per cent were voluntary aided schools (560 primary and 42 secondary schools) and 36 per cent were academies (226 primary and 259 secondary schools).

138. Many local authorities used the opportunity to report concerns, as mentioned above, that a significant number of own admission authority schools lack expertise in, or understanding of, their statutory responsibilities in relation to admission arrangements. Of particular note in this context is that a number of local authorities, in discussion with such schools, have found a lack of awareness of the need to formally determine and publish admission arrangements each year, even if they are unchanged.
139. As in previous years, I remain concerned that adjudicators continue to find matters that ought to have been dealt with during a local authority's process of checking that arrangements comply with the Code. References in oversubscription criteria to feeder schools are often non-compliant, and the wording used in respect of looked after and previously looked after children is still frequently incorrect. Sixth form admission arrangements are often difficult to locate and are often found to be non-compliant in matters such as the information requested on application forms. I commented last year that while it is understandable that a local authority may not wish to object to the admission arrangements of a school in its area, if in the view of the local authority the arrangements do not comply with the Code then they must lodge a formal objection with the OSA. Local authorities made 33 referrals this year as required by the Code. Several authorities commented positively on the outcomes of OSA determinations, irrespective of by whom the referrals were made, and a few mentioned working with schools following the issue of determinations to ensure that changes made to admission arrangements comply fully with the requirements of the Code as detailed in the determination.
140. **Fraudulent applications.** I asked if local authorities had any concern about fraudulent applications following a suggestion from an authority that such a topic should be included in the report template. The response was an almost even split, with 51 per cent not having concerns and 49 per cent reporting some worries. However, in the vast majority of these authorities there is a very small number of cases; the concern, in other words, is that fraudulent applications are made at all, rather than the scale of the problem. In total, just 186 offers of places were withdrawn, the bulk of them (136) in primary schools, spread across 66 local authorities. To put this matter further in perspective, more than a third of the withdrawn offers were in just eight local authorities, four of which were London boroughs. All local authorities describe a range of measures used to

check for fraudulent applications, most drawing on cross-referencing applicants' details with other local authority departments or national databases and some employing spot checks of various kinds. A few large authorities, particularly some shire counties, report that the numbers of applications they have to process precludes a full check of every one and that at best they randomly check a sample of applications and respond to any accusations of malpractice that they receive from members of the public. A small minority reports that internal databases are incompatible or that some other departments are reluctant to share data with admission teams. Overall, however, local authorities are alert to the issue of fraudulent applications and are generally confident in their ability to deal with it.

141. **Starting school and summer-born children.** In July 2013 the DfE issued guidance on the admission of summer-born children. The Code, in paragraphs 2.16 and 2.17, refers to deferred entry and/or part time education for children in the year they reach compulsory school age and the admission of children outside their normal age group. I asked local authorities to report on the data they hold in relation to requests for children to be admitted to a class outside their normal age group, the number of such requests agreed, reasons given for delaying a child's entry to reception for a full year, and for any other comments on matters relating to the admission of summer-born children. Regarding data, there is a very mixed picture; 49 per cent of authorities hold it and 51 per cent do not, with substantially fewer having access to data from own admission authority schools (30 per cent) than from community and voluntary controlled schools (53 per cent). Where data are known from community and voluntary controlled schools, 151 requests were received for admission to a reception class for a child who had reached the normal age for year 1, of which 108 were agreed; for own admission authority schools, 26 requests out of 42 were agreed, a slightly lower proportion. Where such admissions were agreed, it is usually reported as being on account of social, emotional or medical factors affecting the child or, in a very few cases, affecting the parent or carer of that child.
142. Although the data are incomplete, the numbers do not suggest a sizeable problem concerning the admission of summer born children. Nevertheless, a substantial majority of local authorities comment at length on what they see as unhelpful aspects of the DfE guidance referred to above, in that it apparently encouraged parents to see deferred entry to year R for a full year as a right, sometimes for spurious reasons. One example quoted was a parent who wished to defer entry for a child in order not to break a pre-school friendship group. Authorities report that they have had to advise parents to think carefully about the long term consequences of delaying a child's admission to school, and that such deferral may not continue later in the child's schooling. Despite the relatively small number of actual applications involved, most local authorities report a significant increase in the level of time-consuming enquiries since the issue of the

guidance and a few were concerned at possible contradictions between the guidance and the Code, some suggesting that new legislation might be necessary. Several authorities have responded to what they see as a significant new challenge in admission procedures by consulting on local protocols for deferred and part-time admissions to ensure consistency in decision making about offering places.

143. **Composite prospectus for sixth form admissions.** I asked local authorities to report on how they meet regulations concerning the publication of a composite prospectus in relation to admissions to school sixth forms. Just over half tell me that they publish arrangements for this age group, with about one in four producing a separate sixth form prospectus and the majority including sixth form arrangements in their main prospectus. However, among the local authorities which state that they include details of sixth form arrangements in their main prospectus, a large number in fact direct applicants to individual schools' websites and describe their own prospectus as containing "signposts", or similar wording. While a number of authorities openly admit that they do not meet the requirements of the regulations, two erroneously disavow any responsibility to do so; one argues that as all its schools have sixth forms, there is little movement and so sixteen year-olds are not a 'relevant age group', while the other similarly comments that the majority of its schools do not set out to admit at year 12, "but deal only with ad hoc applications". I have commented above that adjudicators frequently find non-compliance with the Code in sixth form arrangements; responses to this question suggest that too few local authorities are active in either checking sixth form arrangements or in meeting requirements for publishing them. Most local authorities have undertaken to remedy any omissions in the next admissions round, and it may be advisable to return to this question next year.
144. **Admission forum.** The Code no longer requires local authorities to have an admission forum, but they may have one if they wish. Just under half of local authorities (65, or 43 per cent) retain an admission forum. In those that do, there is considerable variety in the functions they perform and the frequency of meetings, which may be twice termly, termly, bi-annually or annually. Membership typically includes head teachers, governors, local councillors, community representatives, faith groups, parents, early years providers and sometimes members of other local authority teams. The forums that meet most frequently are those that have had their remit extended beyond scrutinising and advising on individual schools' admission arrangements to, for example, reviewing admissions guidance to parents, distributing advice to own admission authority schools and promoting agreement on arrangements for safeguarding vulnerable children. Local authorities that have retained a forum are unanimous in valuing it as a mechanism for open and frank discussion about admissions in a local context.

Appendix 1 - Case details 2013/14 and 2012/13

Objections to admission arrangements	2013/14	2012/13
Total cases considered	318*	189**
Decisions issued: upheld	86	46
Decisions issued: part upheld	13	51
Decisions issued: not upheld	23	20
Decisions outstanding	157	44
Out of Jurisdiction	30	23
Withdrawn	9	5

* 274 new referrals and 44 decisions outstanding from 2012/13

** 162 new referrals and 27 decisions outstanding from 2011/12

Variations to admission arrangements	2013/14	2012/13
Total cases considered	39*	24**
Decisions issued: approved	24	15
Decisions issued: part approved/modified	2	0
Decisions issued: rejected	0	1
Decisions outstanding	6	4
Out of Jurisdiction	6	2
Withdrawn	1	2

* 35 new referrals and 4 decisions outstanding from 2012/13

** 21 new referrals and 3 decisions outstanding from 2011/12

Directions of pupils to a school	2013/14	2012/13
Total cases considered	16*	5**
Decisions issued: upheld	2	2
Decisions issued: not upheld	6	1
Decisions outstanding	0	0
Out of Jurisdiction	7	1
Withdrawn	1	1

** 16 new referrals and 0 decisions outstanding from 2012/13*

*** 5 new referrals and 0 decisions outstanding from 2011/12*

Statutory Proposals	2013/14	2012/13
Total cases considered	21*	16**
Decisions issued: approved	15	9
Decisions issued part approved/modified	1	0
Decisions issued: rejected	2	2
Decisions outstanding	2	1
Withdrawn	1	2
Out of Jurisdiction	0	2

** 20 new referrals and 1 decision outstanding from 2012/13*

*** 14 new referrals and 2 decisions outstanding from 2011/12*

Land Transfer	2013/14	2012/13
Total cases considered	9*	11**
Decisions issued	3	4
Decisions outstanding	6	3
Out of Jurisdiction	0	2
Withdrawn	0	2

** 6 new referrals and 3 decisions outstanding from 2012/13*

*** 10 new referrals and 1 decision outstanding from 2011/12*

Appendix 2 - OSA Expenditure 2013-14 and 2012-13 ¹

Category of Expenditure	2013-14 £000	2012-13 £000
Adjudicators' fees	527	337
Adjudicators' expenses	22	19
Adjudicator training/meetings	58	30
Office Staff salaries	176	167
Office Staff expenses	5	6
Legal fees	26	19
Publicity ²	0	1
Consultancy fees	0	0
Administration/consumables	1	1
Total	815	580

Notes:

1. Information relates to financial years 2012-13 and 2013-14. The report covers the academic year 2013/14.
2. 'Publicity' relates only to the notification of public meetings held by the adjudicator.



Office of
the Schools
Adjudicator

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