



## BRIEFING PAPER

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# School places in England: admissions and appeals

By Nerys Roberts; Shadi  
Danechi

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## Summary

This briefing paper provides an overview of how places are allocated at state-funded schools in England, and how parents and carers apply for places for their children. It covers the legislative framework, school application processes, and appealing against a refusal to offer a place.

Different arrangements apply in Scotland, Northern Ireland and Wales.

### School starting age

Children in England can take up a full-time school place in the September following their fourth birthday, but there is no requirement for them to be in education until the start of the school term following their fifth birthday.

### Choosing a school

Parents and carers in England can express preferences for particular schools. There's no absolute right to choose a particular school, but if a school is undersubscribed any child that applies must usually be offered a place. Undersubscribed means a school has had fewer applications than places available.

### No automatic allocation of school places

School places are not automatically allocated in England, even when children are attending an attached pre-school or feeder school or have older siblings already attending. Parents or carers need to apply for a place.

### Options for parents who don't get the school place they wanted

Parents or carers who are refused places at their preferred schools have a right of appeal. Other options include remaining on waiting lists, joining the waiting lists of schools not originally applied for, or making other suitable arrangements – for example, home education.

### Appeals during the Coronavirus pandemic

Appeals can go ahead during the pandemic. The DfE has relaxed the rules around how appeal panels are constituted, the current requirement for appeals to be held in person, and some of the associated deadlines.

### How well is the school admissions system working?

Nationally, a large majority of parents receive offers from their first preference primary or secondary schools. However, this masks significant local variation. In some areas, almost all parents get their first preference secondary school after the initial allocation round, whilst in others, only around half do so.

The Education Policy Institute (EPI) has analysed parental use of the appeal and waiting list system. It found that some groups were less likely than others to secure their first choice secondary school using these routes – in particular, those from black and minority ethnic (BAME) groups, and those eligible for the Pupil Premium.

# 1. Introduction

## 1.1 Who decides school admissions policies in England?

The bodies responsible for school admissions in England are called admission authorities. The admission authority will be either the school's governing body, academy trust, or the local authority, depending on school type.

Admission authorities for state-funded mainstream schools in England must have regard to the Department for Education's (DfE's) statutory School Admissions Code and School Admissions Appeals Code:

- DfE, [School Admissions Code](#), December 2014 version - referred to throughout this briefing as the code.
- DfE, [School Admissions Appeals Code](#), last updated in February 2012.<sup>1</sup>

The codes are underpinned by Part 3 of the School Standards and Framework Act 1998 as amended, and related regulations.

Maintained schools are under direct statutory duties in relation to school admissions; academies and free schools are held to the codes through clauses in their funding agreements with the Secretary of State for Education.

## 1.2 Recent policy developments relating to school admissions

Between June and October 2020, the Department for Education [consulted on changes](#) to the school admissions code. The proposals concerned vulnerable children without a school place during the school year, and some other related issues.

Proposals included:

- Introducing timescales for the in-year application and decision-making process. In-year admissions are those made outside usual points of admission – for example, September for starting reception, and the September of year 7 for secondary schools.<sup>2</sup>
- Requiring local authorities and admission authorities to share certain sorts of information about how applications can be made, and where places are available.
- Clarifying how fair access protocols (FAPs) should work and who they should cover. FAPs are designed to help vulnerable children access a school place; the current guidance is covered in section 4.7 below.

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<sup>1</sup> Department for Education, [School Admissions Code](#), December 2014; DfE, [School Admissions Appeals Code](#), February 2012. All web addresses last accessed 15 April 2020, unless otherwise stated.

The consultation did not cover amendments relating to delayed school admission for summer-born children, because changes in this area would require primary legislation. Section 2.2, below, provides more information on this issue.

At the time of writing, the Government has not yet published its response to the consultation.

### **1.3 Determining and consulting on admission arrangements**

A school's admission arrangements must specify how many children in the relevant age group the school intends to admit (the published admission number, or PAN) and how applicants will be prioritised where there are more applicants than places.

The criteria used to prioritise applicants are known as oversubscription criteria.

If an admission authority wants to vary its admission criteria from the previous year, it's usually required to consult on this, although there are some exceptions.

Even where no changes are proposed, admission authorities must consult on their admission arrangements once every seven years as a minimum.

### **1.4 The Schools Adjudicator – objections to admission arrangements**

The Office of the Schools Adjudicator decides on objections to determined admission arrangements for state-funded mainstream schools in England. Further Information is available on the [Office of the Schools Adjudicator website](#).

## 2. Applying for a school place in the normal round

### Box 1: Starting and changing schools in England

- In England, children can start school full-time in the autumn term following their fourth birthday.
- There is no requirement for children to attend school, but if they don't, they must receive a suitable full-time education somewhere else (for example, at home) once they're of compulsory school age.
- Children commonly transfer to secondary school in the September following their eleventh birthday.
- In some areas, transitions take place at different ages – e.g., in areas with first, middle and upper schools.
- Independent schools often work to a different admission timetable and children may transfer at different points to those in state-funded schools. Admissions to independent schools are outside the scope of this briefing.

### 2.1 No automatic enrolment in schools

School places are not automatically allocated once a child reaches a certain age. Parents or carers must apply on their behalf.

For admission at normal points of entry (for example, entry into the first year of infant/ primary or secondary school) parents apply to their home local authority. Some free schools in their first year of operation may choose to run their own admission process.

Some schools may require a supplementary information form that asks for further details about the child, and some selective schools require applicants to sit tests or exams.

### 2.2 School starting age in England

Children don't have to be in education (whether in a school or otherwise) until they reach compulsory school age. Children reach this age on the prescribed day following their fifth birthday, or on their fifth birthday where this falls on a prescribed day.<sup>3</sup> The prescribed days are:

- 31 December
- 31 March
- 31 August

### Summer born children starting school

<sup>3</sup> Section 8, the *Education Act 1996*, as amended; *The Education (Start of Compulsory School Age) Order 1998*, SI 1998/1607.

Currently, parents and carers are allowed to request that children are admitted outside their usual age group. This means they would join the year above or below the one they would usually join based on their age. However, at the moment, there's no duty on admission authorities to comply with such requests.

A separate briefing paper looks at the rules on the admission of summer born children to school - i.e., those born between 1 April and 31 August inclusive):

- [Commons' Library briefing paper, Summer born children: starting school.](#)

The Government has committed to strengthen parents' rights to request their summer born child starts reception a year later than they would usually – i.e., after they have turned five years old as opposed to when they have turned four.

In response to an oral question on 23 November 2020, Minister Nick Gibb said that it was still the Government's intention legislate to change the school admissions code.<sup>4</sup>

In December 2018, the Local Government and Social Care Ombudsman issued [guidance](#) to local authorities and schools on how it would consider complaints about school admission for summer-born children. As well as providing case-studies, the guidance is intended to give "admission authorities, and the public, a shared understanding of the correct decision-making process admission authorities must take."<sup>5</sup>

## Deferring a reception place, or attending part-time

Parents or carers can defer the date their child starts in the allocated reception class until either:

- The beginning of the summer term, in the case of summer born children with birthdays between 1 April and 31 August inclusive.
- For all other children, the beginning of the term following their fifth birthday.

The school's permission is not required to defer a place in this way. Parents and carers can also decide that their child will attend school part-time until they reach compulsory school age.

## 2.3 School application process

### Selecting schools

The local authority's common application form (or online admission application) must allow parents to name a minimum of three schools, in order of preference.

Admission authorities must comply with parental preferences where this is reasonable, but not if all places are already taken by children ranking more highly against the school's oversubscription criteria. As such, there

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<sup>4</sup> [HC Deb 23 November 2020, Vol.684.](#)

<sup>5</sup> Local Government and Social Care Ombudsman, [Guidance for councils on admitting summer born children to school](#), December 2018.

is a right to express a preference for a school or schools, but no absolute right to choose a school unless the school is undersubscribed.<sup>6</sup>

### **Myths about naming more than one school on the application form**

Nominating only one school on the application form doesn't increase the chances of being offered a place at the preferred school. If all places at the only nominated school are filled by children who rank more highly against the school's oversubscription criteria, then the applicant would usually be offered another school selected by the local authority.

The code expressly prohibits admission authorities from "[giving] extra priority to children whose parents rank preferred schools in a particular order" (para 1.9 of the code).

### **Nominating schools in other local authority (LA) areas**

On the application form, parents can nominate any mainstream school which has an intake of children at the relevant age; this includes schools in other LA areas. The likelihood of getting a place will depend on whether the chosen school is oversubscribed or not, and if so, how closely the child meets the oversubscription criteria.

## **2.4 Specific situations - FAQs**

### **When a child has two addresses because of shared care**

Different admission authorities use different criteria to determine a child's main address, where a child lives for part of each week with each parent. Local authorities can provide guidance on their policy.

### **Moving house after the application deadline**

The local authority should be able to provide written clarification about the rules in situations where families move house after the cut-off date for on-time applications, or will move soon before the application deadline.

### **School places for children returning or arriving from abroad**

There are special provisions in the admission code relating to children of crown servants returning from overseas and children of serving members of the armed forces with a confirmed new posting.

For families in this situation, the admission code requires admission authorities to provide school places in advance of arriving in the area, providing certain documentary evidence is supplied.<sup>7</sup>

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<sup>6</sup> This does not apply in the case of grammar schools, which do not have to admit children who don't meet the academic threshold, even if there are spare places.

<sup>7</sup> See: Department for Education, [Admission of children of crown servants. Explanatory note](#) September 2015.



The consultation on a new version of the school admissions code, discussed in section 1.2 above, proposed some changes to the rules on admission applications from crown servants and service families. Specifically, it proposed amendments to the types of address that can be used for applications.

[Department for Education \(DfE\) guidance](#) provides the following information on children from overseas more generally:

In most cases, foreign national children in the UK have the right to attend schools in England. School admission authorities must not refuse to admit a child on the basis of their nationality or immigration status nor remove them from roll on this basis. It is the responsibility of parents to check that their children have a right, under their visa entry conditions, to study at a school.

To help parents, we recommend that local authorities advise foreign nationals, who wish to apply for a state-funded school place, to check that they have a [right of abode](#) or that the conditions of their immigration status otherwise permit them to access a state-funded school. Local authorities can do this by adding a reminder to their admissions webpage and within their composite admissions prospectus.

Until 31 December 2020, all [European Economic Area](#) ('EEA'), and Swiss national children, had the right under freedom of movement and UK immigration law, to enter the country to access a school. Any EEA or Swiss national who arrived in the UK by 31 December 2020 is eligible to apply to the [EU Settlement Scheme](#), and continue to be able to study in schools in England as they do now if their application is successful.

Freedom of movement into the UK for EEA and Swiss citizens ended at the end of 2020. EEA (Irish citizens aside) and Swiss national children entering the UK after the end of 2020 are now treated the same as other foreign nationals. This means they will no longer have the right to enter the country to access a state-funded school unless they fall within the following immigration categories.

Children aged under 18 can enter the UK, as a dependant of a foreign national who has settled status in the UK, as a dependant of their parent(s) who are in the UK on a [work visa](#) or [Student visa](#), or who are part of a family entering or residing in the UK under the [immigration route for British National \(Overseas\) citizens and their dependants](#).

These dependant children are entitled to enter the country and can study at a state-funded or independent school once in the UK. Dependant children of a person on the BN(O) route must make an application, under the BN(O) immigration route, at the same time as their parent(s). Dependant children who do not arrive in the UK at the same time as their parents, would need to [apply for a visa separately](#) as a dependant child.

Unaccompanied children may also enter the UK to access a school. To comply with their visa terms, unaccompanied foreign national children, and young people (including such EEA and Swiss nationals entering the UK after 31 December 2020) who are entering on a [Child Student visa](#) or [Student visa](#) must, when accessing education in England, study at the independent school, sixth form college or further education college which is a [licensed](#)

[student sponsor](#) that has offered them an unconditional place on a course.

Foreign nationals cannot use the 6-month Standard Visitor visa, or 11-month Short-term Study (English language) visa, to enter the UK to enrol as a pupil at a state-funded school, although some exchange programmes may be possible on the Visit route. Find out what these visas can be used for on the [Standard Visitor visa](#) page.

[...]

If a school is concerned that a child may not have a right to enter the country to access a state-funded school, it must not deny them a place or remove them from the school roll. Schools should advise parents to check their rights or email the Home Office's school referrals team so they can investigate further.<sup>8</sup>

[The guidance](#) also covers the types of evidence that admission authorities could consider when receiving an application for a school place from families intending to move to England.

### 2.5 Guidance for parents and carers

Local authorities publish guidance on the school application process; often, this will include information on how school places were allocated in previous years – for example, how far the furthest child offered on the grounds of home-to-school distance lived from the school.

School intake patterns can vary significantly from year to year, depending on a wide range of factors – for example, the number of siblings applying, whether the admission criteria have changed, or whether a new housing development has been built.

### 2.6 Obtaining a school place dishonestly

Where an admission authority believes that a place may have been obtained dishonestly, e.g., by inappropriately using the address of a relative rather than the child's actual home address, then it may decide to carry out an investigation.

Where an admission authority concludes that a place has been obtained "fraudulently" (para 2.13), the code allows it to withdraw the place even when the child has started school. The length of time a child has been at the school will be a likely factor when deciding whether such action would be reasonable. The code suggests that "it might be considered appropriate to withdraw the place if the child has been at the school for less than one term."<sup>9</sup>

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<sup>8</sup> Department for Education, '[School admissions: applications from overseas children](#)', updated 20 November 2020.

<sup>9</sup> Department for Education, [School Admissions Code](#), Dec 2014, Para 2.13

## 3. Parents unhappy with their school place offer

### 3.1 Receiving an offer

On national offer day, parents and carers should receive one offer of a school place, which they will need to accept or decline.

Where the LA is unable to offer a place at any of the schools a parent nominates on the application form, it may allocate a place at another school with capacity. This could be at a school some distance from the child's home; information on home-to-school transport and when this must be arranged can be found in section 6 of a separate [Library briefing paper, Constituency casework: schools](#).

Occasionally, an LA may be unable to offer any place at all on national offer day. In these cases, parents may wish to seek independent advice from a specialist organisation on how to proceed. Organisations that might be able to assist include:

- [Citizen's Advice](#)
- [ACE Education](#)
- [Coram Children's Legal Centre](#)

Rejecting the offered school doesn't make it more likely that a place will be found in a preferred school. Once it has made an offer, the LA is usually considered to have discharged its statutory duty to arrange a school place.

Parents who are not offered a place at their preferred school have a number of options open to them. Some of these are outlined below.

### 3.2 Waiting lists

All admission authorities are required to maintain a waiting list for at least the first term of the school year. Applicants can contact the admission authority to enquire whether their child has been automatically placed on waiting lists.

Waiting lists are kept in order of the school's admission oversubscription criteria, and not according to the date the child's name was added to the list. A child's position on a waiting list can therefore go down as well as up – for example if a child who ranks more highly against the oversubscription criteria joins the list.

### 3.3 School admission appeals

Parents or carers who are unhappy with the decision to refuse their child a place at a particular school usually have a right of appeal.

Statutory guidance on the appeal process is contained in the DfE's School Admissions Appeals Code.<sup>10</sup>

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<sup>10</sup> Department for Education, [School Admissions Appeals Code](#), February 2012

## 12 School places in England: admissions and appeals

Admission appeals are for a place at a school that has declined them a place, not against the place allocated.

There are special arrangements for some appeals about admission to infant classes (reception, year one and year two).

### The infant class size rule

The *School Admissions (Infant Class Sizes) England Regulations 2012*<sup>11</sup> limit maintained school infant classes (i.e. classes in which the majority of children will reach the age of five, six or seven during the school year) to 30 pupils per school teacher. There are limited exceptions to the general rule, and these are set out in paragraph 2.15 of the code:

- children admitted outside the normal admissions round with statements of special educational needs or Education, Health and Care Plans specifying a school;
- looked after children and previously looked after children admitted outside the normal admissions round;
- children admitted, after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process; d) children admitted after an independent appeals panel upholds an appeal;
- children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
- children of UK service personnel admitted outside the normal admissions round;
- children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
- children with special educational needs who are normally taught in a special educational needs unit attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.<sup>12</sup>

There are no statutory maximum class sizes for classes other than infant classes.

### Infant class size appeals: what can appeal panels consider?

Section 4 of the admissions appeals code deals with infant class size appeals – that is, appeals about admission to reception, year one or year two classes where the admission of extra children would breach the statutory class size maximum of thirty pupils per teacher.

A panel considering an infant class size appeal can only uphold appeals at the first stage if:

- [I]t finds that the admission of additional children would not breach the infant class size limit. Or;

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<sup>11</sup> SI 2012/0010, made under S 1 of the *School Standards and Framework Act 1998*, as amended.

<sup>12</sup> Department for Education, [School Admissions Code](#), December 2014, para 2.15, Pp. 23-24

- [I]t finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or
- [I]t decides that the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.<sup>13</sup>

On the consideration of 'reasonableness' (in relation to the third ground above) the appeals code says:

The threshold for finding that an admission authority's decision to refuse admission was not one that a reasonable authority would have made is high. The panel will need to be satisfied that the decision to refuse to admit the child was 'perverse in the light of the admission arrangements' i.e. it was 'beyond the range of responses open to a reasonable decision maker' or 'a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it'.<sup>14</sup>

### Support for parents or carers wanting to appeal

Parents who decide to appeal may wish to obtain specialist advice. The following may be useful initial background for parents or carers considering this route:

- ACE Education website article, '[Disappointed with the school place offered to your child?](#)'.
- Gov.uk website article, '[School admissions – appealing a school's decision](#)' .

## 3.4 Appeals during the Coronavirus pandemic

The Department for Education has changed the rules around how school admission appeals must be conducted during the Coronavirus pandemic. In particular, there are increased flexibilities around:

- Holding appeals in person: instead, they can take place either in person, by phone, video conference, or via paper-based methods.
- Panel constitution: where one of the three panel members withdraws, appeals are allowed to continue with only two members.
- Appeal deadlines: these are amended during the period when the regulations are in force.
- The Government has extended the temporary flexibilities and they now apply until 30 September 2021, subject to review.<sup>15</sup> Further information about appeals for school places during the pandemic can be found in a DfE website article:

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<sup>13</sup> Department for Education, [School Admissions Appeals Code](#), February 2012, pp20-21.

<sup>14</sup> As above, p21.

<sup>15</sup> The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021, SI 2021/14.

- DfE, [Changes to school admission appeals due to coronavirus](#), 1 February 2021.

### 3.5 Further avenues of complaint

Where there is evidence that a school place has been refused because of some unfairness or mistake by the admission authority or a school admissions appeal has been handled incorrectly, the Local Government and Social Care Ombudsman (for maintained schools) or the Education and Skills Funding Agency (ESFA – for academy schools) may be able to consider a complaint.

This is not another level of appeal and neither the LGO nor ESFA can question decisions if they were taken properly and fairly by the admission authority or the appeal panel. An LGO [factsheet on school admissions](#) (October 2020), provides information about making complaints in relation to school admissions.<sup>16</sup>

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<sup>16</sup> Local Government and Social Care Ombudsman, '[School admissions](#)', October 2020.

## 4. How admission authorities rank applicants

Where a school is under-subscribed, any child applying for a place during the normal admission round must usually be offered one. This does not apply in the case of designated grammar schools (or academies that were previously designated grammar schools). These schools can refuse a place if a child does not meet the required academic standard.

Where a school is oversubscribed the school's admission authority will rank applications against its published oversubscription criteria.

The oversubscription criteria used must be "reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation" (para 1.8 of the code).

### 4.1 Children automatically receiving the highest priority

#### Looked after and previously looked after children

The code requires that, for non-selective, non-faith schools, all children in the following two categories must always be given the highest priority in oversubscription criteria:

- Looked after children.
- Previously looked after children, who have left care via adoption, special guardianship order (SGO) or a child arrangements order.

Where a school designated with a religious character (a 'faith' school) gives some priority to children based on faith, it must prioritise looked after and previously looked after children of the faith ahead of other children of the faith.

Guidance on the admission of looked after and previously looked after children to selective schools can be found in paras 1.19, 1.20 and 1.23 of the code.

#### Children adopted from overseas

Currently, the rules giving admission priority for children adopted domestically do not extend to children adopted from state care overseas. However, the Government said in response to a PQ in 2017 that it intends to change this position:

Asked by: Lord Storey: To ask Her Majesty's Government why the same school admission criteria for children adopted in the UK do not apply to those adopted from overseas.

Answered by: Lord Agnew of Oulton: School admission authorities have been required to give looked after children – those who are in the care of a local council in England – highest priority in their admission arrangements since 2007.

In 2012, this priority was extended to previously looked after children – those who have been looked after but ceased to be so because they were adopted or became subject to a child arrangements order or special guardianship order. Our intention was to ensure that all children who receive highest priority whilst in care of the local council continue to receive that priority once they have left care.

We have now also decided that when the opportunity arises, we intend to make further changes to the School Admissions Code. These changes will ensure that children who were previously in care outside of England also receive highest priority for admission into a school in England.

Any changes to the School Admissions Code will require a full statutory process, including consultation and parliamentary scrutiny.

However, until we are able to make the relevant changes to the Code, we have written to admission authorities encouraging them to use their current flexibilities in setting their own admission arrangements, to give these children second highest admissions priority in their oversubscription criteria.<sup>17</sup>

The 2020 DfE consultation on the school admissions code proposed giving equal priority in admissions to those who, prior to adoption, appeared (to the admission authority) to have been in state care outside England.<sup>18</sup>

### Children with a statement of special educational needs or an Education, Health and Care Plan (EHCP)

The code states:

[...] All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school must be admitted.<sup>19</sup>

## 4.2 Commonly-used oversubscription criteria

The code does not provide a definitive list of acceptable oversubscription criteria that can be used by admission authorities.

Commonly-used criteria include:

- Having a sibling at the school.
- Distance between home and school.
- Faith-based criteria (in the case of faith schools).
- Catchment areas.
- Attendance at feeder primary or junior schools.
- Social or medical need.

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<sup>17</sup> [PO HL 3735 \[on Schools: Admissions\], 13 December 2017.](#)

<sup>18</sup> Department for Education, [Changes to the School Admissions Code. Government consultation](#), June 2020, p7.

<sup>19</sup> Department for Education, [School Admissions Code](#), December 2014, para. 1.6, Pp. 9 - 10



### 4.3 Selection by ability or aptitude

Where a school selects the whole, or a proportion of, its intake based on ability or aptitude, there may be a separate selection test for the child to sit. Admission authorities can supply details of any selection tests, timings, and how to register.

### 4.4 Faith-based oversubscription criteria

Schools designated with a religious character can use faith-based oversubscription criteria to give higher priority to children of the faith than children of other faiths or of no faith, where oversubscribed.

Not all faith schools use faith-based oversubscription criteria.

Where there are fewer applicants than places, all applicants must be given a place without reference to faith; schools can't refuse a place solely on the basis that a child is not of the relevant (or any) faith.

### 4.5 What criteria cannot be used to rank applicants?

Admission authorities are responsible for determining their own admission criteria, but the code sets out certain criteria that they can't use. These include:

- Having arrangements that directly or indirectly disadvantage children from particular social or racial groups, or children with disabilities or special educational needs.
- Using any other criteria other than those clearly stated in published admission criteria when ranking applicants (i.e., using 'discretion' to admit a child who'd not otherwise qualify for a place).
- Taking into account previous schools attended unless this is a named feeder school.
- Taking into account the rank of parental preferences – i.e., giving a child lower priority simply because the parent had named the school third rather than first on the application form.
- Giving preference based on parents' practical or financial support for the school or a related body, including a religious organisation (aside from particular free schools that can give some priority to children of founders).
- Except in the case of the children of staff and those who would qualify for the [pupil premium](#) or [service premium](#), giving priority to children based on parents' income, occupation, marital or financial status.
- Interviewing parents or children.<sup>20</sup>

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<sup>20</sup> There are exceptions for state boarding schools, which may interview children to determine their suitability for boarding, and for entry into the sixth form where a meeting may take place to discuss course options and academic entry requirements. The meeting, however, cannot "form part of the decision-making process on whether to offer a place" (para. 1.9 of the code).

## 4.6 Catchment areas

Some areas and schools operate a system of catchment areas, sometimes referred to as priority admission areas. Admission criteria can give some priority to children living within catchment.

Although many schools with catchment areas have space for all catchment children who apply, this isn't always the case and some may apply additional criteria to select between catchment applicants. Therefore, a child can be within catchment but not be offered a place.

Catchment areas must be drawn up in ways that are reasonable and clearly defined (para 1.14 of the code). If an admission authority is considering changing its catchment area, then this requires a statutory consultation.

In some cases, the term catchment area is used to describe a school's intake area in the previous year – i.e., the furthest distance a child was admitted from under distance criteria. This can be confusing because the school might not in fact have a formal defined catchment area.

## 4.7 In-year applications

Parents or carers who want their child to change schools or join a school outside the normal application round (e.g., in the middle of a school year, or at a point when children don't routinely join the school) will usually be required to make an in-year application.

In some areas, the local authority handles in-year applications for all schools, including own-admission authority schools, but there is no statutory requirement for them to do this. In some cases, parents may need to apply directly to the school in question.

As noted above, the DfE has recently consulted on changing the admission code's provisions on in-year admissions, and on fair access protocols (covered below).

### Fair access protocols for hard-to-place children

Fair access protocols set out how school places should be found for children, particularly vulnerable children, who haven't been able to get a place through the usual in-year processes.

Each local authority must have a fair access protocol, which must be agreed with the majority of schools in the local area. The fair access protocol must cover the following groups, as a minimum:

- children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- children who have been out of education for two months or more;
- children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- children who are homeless;

- children with unsupportive family backgrounds for whom a place has not been sought;
- children who are carers; and
- children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan).<sup>21</sup>

In 2018-19, the Government carried out a [review](#) of support for children in need of help and protection – i.e., those who need the support of a social worker. In response to the findings of this review, the DfE confirmed that it was intending to make changes to the School Admissions Code “and improve the clarity, timeliness and transparency of the in-year admissions process to ensure all vulnerable children can access a school place as quickly as possible”. It also said that it would strengthen and improve fair access protocols, ensuring they “can be used to admit children who currently need a social worker and specifically children in refuges.”<sup>22</sup> Subsequently, the June 2020 DfE consultation on the admissions code (see section 1.2, above) proposed making these changes.

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<sup>21</sup> Department for Education, [School Admissions Code](#), December 2014, para. 3.15, p30.

<sup>22</sup> Department for Education, [Help, protection, education: concluding the Children in Need review](#), June 2019, p18.

## 5. How well does the school admissions process work?

### 5.1 Schools' Adjudicator annual report for the 2018-19 academic year

The Schools' Adjudicator's [most recent annual report](#) was published in February 2020, and covers the period September 2018 to August 2019.<sup>23</sup>

On admissions processes, this concluded:

- That normal admission rounds generally worked well.
- Some concerns remained about the experiences of vulnerable children and young people needing a school place in year. About one third of local authorities didn't know the number of children who'd been admitted to their local schools in year.<sup>24</sup>

On the types of issues raised by complainants:

- Objections related to a range of matters, including: the use of feeder schools; catchment areas, faith based arrangements, the testing arrangements for grammar schools; and the fairness, clarity and reasonableness of admissions arrangements.
- Just under half of objections about admissions arrangements (58 of 140) related to grammar (selective) schools. Some objectors disagreed with grammars giving any priority to those children entitled to the Pupil Premium, as is now permitted by the code. Conversely, others thought grammars were not doing enough for disadvantaged children.<sup>25</sup>

Other findings included that:

- Fair access protocols "do not always run smoothly", with some schools trying to draw out the process of admitting a child, or refusing outright even when the panel had decided the school was the most suitable one for the child.<sup>26</sup>
- LAs reported an increased number of children recorded as being home-educated - around 61,000 children in 2018-19 compared with 53,000 the previous year – a rise of 14.7%. As the report notes, this is likely to be an underestimate because home-educating parents don't have to register with their LA.<sup>27</sup>
- The admission of summer-born children in school was also raised by several local authorities.

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<sup>23</sup> Office of the Schools Adjudicator, [Annual report: September 2018 to August 2019](#), updated 13 March 2020.

<sup>24</sup> As above, p26.

<sup>25</sup> As above, p9.

<sup>26</sup> As above, p32.

<sup>27</sup> As above, p35.

## 5.2 Statistics on school place preferences

The Department for Education publishes [annual statistics](#) on the proportion of applicants receiving offers from their preferred schools. The latest available are for school entry in September 2020. These statistics only cover offers made on the national offer days - in March for secondary schools, and in April for primary phase schools.<sup>28</sup> They don't cover places offered after these dates, i.e., from waiting lists, following the addition of bulge classes, or in some cases, after a successful admissions appeal.

In 2020, and at secondary level:

- Across England as a whole, **82.2%** of applicants were offered their first choice of secondary school. This is an increase on the previous year, when the figure was **80.9%**.
- The chance of receiving a first choice offer varied significantly across the country. Nine of the ten LAs with the lowest rates of first choice offers were in London. For example, **52.8%** of secondary applicants to Hammersmith and Fulham got their first choice; this compares to **97.3%** of applicants to Northumberland LA.<sup>29</sup>
- At primary level:
  - Across England as a whole, **90.2%** received an offer from their first choice school – broadly similar to in 2019 (where the figure was 90.6%)
  - Rates varied significantly across the country. Again, nine of the ten LAs with the lowest rates of first choice offers were in London. For example, in Kensington and Chelsea, **70.7%** of applicants received an offer from their first choice school, whereas in Redcar and Cleveland, the figure was **99.3%**.<sup>30</sup>

### Education Policy Institute research

[Analysis by the Education Policy Institute](#) looked at 2019 admissions data. This noted that the lower first preference offer rate seen in some London boroughs in that year may partly have been because the pan-London admissions system allows parents and carers to name up to six preference schools, leading to more speculative choices.<sup>31</sup> However, the researchers also note that the LAs with the lowest rates of first choice offers tend to also have “high total volumes of applicants relative to the number of school places available”.

The research also suggested that:

- White British families were more likely than black, Asian and minority ethnic (BAME) families to be offered their first choice

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<sup>28</sup> Department for Education, [Secondary and primary school application and offers: 2020](#), 11 June 2020.

<sup>29</sup> As above.

<sup>30</sup> As above.

<sup>31</sup> Education Policy Institute, [‘What have we learned from National Offer Day 2019?’](#), 13 June 2019.

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secondary school. Further, these gaps weren't fully explained by where people lived.

- Part of the reason for this pattern is that BAME families are more likely than white British families to apply to schools with better Ofsted ratings – schools which tend to have more competition for places.

[Earlier research by EPI](#) looked at the waiting list and appeal systems, and different groups' experience of this. This analysis was based on data from the admission round for secondary school entry in September 2016.<sup>32</sup> It found:

- Of those families that weren't offered their first choice, around one in five used either appeals or waiting lists to get into a school that was higher on their preference list than their originally offered school.
- One in seven families receiving a lower preference offer (or school they hadn't listed) used waiting lists or appeals to obtain a place at their first-choice secondary school.
- Even after controlling for location, poorer families and those from BAME backgrounds were less likely to get their first choice school via an appeal or waiting list.
- The groups most likely to be offered their first choice school in the initial allocations also tend to be those who are more successful via the appeal or waiting list route.

The research concludes that the appeal and waiting list system "perpetuates inequalities in access to preferred and good schools, and increases social segregation".<sup>33</sup> EPI recommended that the then-Government carried out a review of the school admissions system.

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<sup>32</sup> Education Policy Institute, [Fair access to schools? The impact of the appeals and waiting list system](#), April 2019.

<sup>33</sup> Education Policy Institute, [Fair access to schools? The impact of the appeals and waiting list system](#), April 2019, p9.

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