

## Briefing Note: National School Admissions Code 2021

### Admissions Code 2021:

New National School Admissions Code will go live from 1<sup>st</sup> September 2021. You will find below, key mandatory changes and amendments. All own admitting authorities are advised to take their own legal advice about making the mandatory changes and impact of non-compliance. Link to new Code: <https://www.gov.uk/government/publications/school-admissions-code--2>

### Admissions Code: Priority Criteria

All Oversubscription priority criteria must be reasonable, clear, objective, procedurally fair and comply with all relevant legislation, including the equalities legislation.

### Admissions Code: Mid-Team ( in-year) Applications

- LA Co-ordination of mid-term (in-year) arrangements remains optional for an Academy to participate in or not. (In Leicestershire the vast majority of academies participate in the LA's co-ordinated (traded) scheme). However, where academies do NOT participate in the LA's arrangements you are required to provide the LA your arrangements and contact details will then host them on their website;
- All LAs will be required to publish mid-term arrangements by October 2021 this year and then by 28<sup>th</sup> August in subsequent years. Failing to comply with this requirement will be considered as non-compliance;
- All academies and schools must also publish on their own websites these arrangements, to enable parents to understand how they apply to your academy or school as a mid-term applicant. For those academies that buy into the LA's co-ordinated mid-term scheme, you will merely have to provide a link to the LA website, for all those that do not buy the LA's scheme, they must instead publish the information on their website. Failing to publish your arrangements will be considered as non-compliance;
- All Reception, Junior, Year 7 and Upper School transfers from the 1<sup>st</sup> September will be considered as mid-term applications and not as late transfer applications;
- The LA must provide parents on request information about numbers of roll across all year groups in academies and schools. To enable the LA to perform this function

academies and schools must on request supply numbers on roll to the LA. Failing to share the information will be considered as non-compliance;

- The new Code underscores that if you have availability you must not refuse the place: even if the application was received late, for faith reasons (if a faith school), if the previous academy or school did not follow the same curriculum (specifically Years 10 and 11);
- All academies and schools will be required to make a decision within 10 school days following receiving an application. Where the academy or school make their own decisions, they must inform the LA of the outcome, failing to do so will be considered a breach of the Code. Where the decision is to offer the place it will be incumbent on the academy or school to start the child as soon as possible (or to report the child to the LA's CME team).

### **Admissions Code: Looked After Children (LAC)**

In addition to LAC, previously LAC and/or adopted, the new Code will be adding LAC in State care or adopted from outside of England or became subject to a child arrangement order or special guardianship order. (This will be a mandatory change that all admitting authority's must adopt.)

Definition of state care:- a child accommodated by a public authority, a religious organisation, or other provider (i.e. charity group that benefits society) but does not include private fostering.

The above changes must be adopted immediately following the new Code's release, academies or schools do not have to consultation on mandatory changes.

### **Admissions Code: Challenging Behaviour**

Definition of Challenging Behaviour is:

- Being able to evidence significant interference with (own) child's or other child(ren)'s education;
- Jeopardising the right of staff and pupil(s)/student(s) to be in a safe and orderly school environment;
- Where it can be evidenced the challenging behaviour is of such intensity, frequency or duration that it is beyond the range that an academy or school can tolerate;
- Where a range of demonstrable interventions to address the challenging behaviour have been ineffective.

Notwithstanding the above, no academy or school can refuse to admit a child when applying as part of the Normal Round (first time admissions, infant to junior transfers or at Year-7 transfers) citing or owing to challenging behaviour.

Academies and schools should also be aware before refusing on grounds of challenging behaviour that they are not in breach of the Equalities Act 2010 where there are additional

needs e.g. Autism (owing to the outcome of a Judicial Review 2019 launched by National Autistic Society against a school that refused entry to an autistic child) and that their grounds of refusal were deemed a breach of the child's Human Rights preventing access to an education and being treated differently to others.

Other examples where you cannot refuse is when:

- An academy or school cannot evidence or demonstrate that they have a higher proportion of children with challenging behaviour;
- The child concerned has a EHPC or is a LAC (including LAC from outside of England);
- The child is potentially challenging, or is under assessment of SEN.

### **Admissions Code: Fair Access Protocol (FAP)**

Leicestershire's Fair Access Protocol has been up-dated in line with the draft Code and is live on the LA website. All schools in Leicestershire currently participate and this is why in the majority of instances vulnerable children continue to be placed swiftly.