

Forward Plan reference number: FP/155/09/21

Report title: Adoption of schemes to co-ordinate pupil admissions to primary and secondary schools in 2023-24 and management of in-year applications from 1 April 2022

Report to: Cllr Tony Ball, Cabinet Member for Education Excellence, Lifelong Learning and Employability

Report author: Clare Kershaw, Director, Education

Date: 12 October 2021

For: Decision

Enquiries to: Shamsun Noor Head of Statutory and Regulated Customer Services
Tel: 033301 32246, Email: shamsun.noor@essex.gov.uk

County Divisions affected: All Essex

1. Everyone's Essex

- 1.1 This report asks the Cabinet Member to adopt legal schemes which allows parents to apply for school places via a single form (co-ordinated admissions schemes). This will enable parents to apply for school places in a fair and accessible way. The schemes will ensure the Council continues to fulfil its legal duties in this respect.
- 1.2 The changes recommended to the process for in-year applications will enable children to access school places more quickly where a school transfer is required, thereby reducing potential time and travel implications to their current school, with associated environmental benefits. It will improve life for residents by allowing applications for in-year admissions to be handled more quickly

2. Recommendations

- 2.1. That the Cabinet Member adopts qualifying co-ordinated school admission schemes for 2023-2024 as set out in Schedule 1, Schedule 2 and Schedule 3 of this report.
- 2.2 That the Cabinet Member approves the changes to the management of in-year applications for infant, junior and primary schools with effect from 1 April 2022 as detailed in this report.

3. Background and proposal

- 3.1. The law requires that all local authorities adopt qualifying schemes for the co-ordination of pupil admissions to all maintained schools and Academies for children resident in their area by 28 February each year.
- 3.2. The schemes apply to applications from parents who reside anywhere in the administrative county of Essex.

- 3.3. Legislation prescribes the persons and groups that must be consulted when a local authority is preparing its proposed co-ordinated admissions schemes.
- 3.4. The statutory School Admissions Code states that schemes must be consulted upon at least once every seven years. The schemes relating to applications made in the normal admission round (and late applications) were consulted upon between November 2020 and January 2021, prior to them being adopted for 2022-23 admissions, with no comments or substantive changes being made. As no substantive changes are proposed in this respect for 2023-24 admissions, there was no requirement to consult on the schemes for applications in the normal admission round (and late applications).
- 3.5. There is, in any event, limited flexibility when adopting the co-ordinated admission schemes for applications made in the normal admission round (and late applications). Regulations govern what qualifying schemes must make arrangements for and the closing dates for applications are laid down in statute.
- 3.6. The days on which offers of places must be communicated for the normal admission round are also prescribed in law – 1 March for secondary and 16 April for primary (or the next working day if 1 March or 16 April is a non-working day).
- 3.7. For applications made in the normal admission round (and late applications), the draft schemes are substantially unchanged from those adopted in previous years, save for natural adjustments in dates to reflect the academic year. They are consistent with all legal requirements.
- 3.8. These draft schemes provide for parents to express 4 and 6 preferences respectively for primary and secondary applications. This exceeds the minimum legal requirement which is that parents must be permitted to express at least 3 preferences.
- 3.9. The draft schemes do, however, propose a change to the way in-year applications for places in infant, junior and primary schools are managed, with the proposed changes to take effect from 1 April 2022.
- 3.10. An in-year application is an application which is made for admission into any year group (Reception to Year 11), excluding those made in the normal admission round (and late applications) to start newly at a school from September in Reception, Year 3 of a junior school or Year 7 in a secondary school.
- 3.11. Whilst, by law, the Council is required to co-ordinate all applications made in the normal admission round (and late applications), there is no longer a similar duty on the Council to co-ordinate in-year applications.
- 3.12. Since 2012, all secondary schools in Essex have handled their own in-year applications. All mainstream secondary schools in Essex are 'own admission authority' schools i.e. academies, foundation or voluntary aided schools which

means that the respective academy trust or governing body is the admission authority and, as such, responsible for handling in-year applications.

- 3.13. In 2012, when the statutory Department for Education (DfE) School Admissions Code changed so that local authorities were no longer required to co-ordinate in-year applications, the Council decided it would continue to do so for infant, junior and primary schools. At that time, the Council remained the admission authority for a majority of schools in the primary phase (i.e. infant, junior and primary) schools. The position of the Council co-ordinating these in-year applications has been maintained since that time.
- 3.14. However, the education and admissions landscape has changed significantly in recent years, with the academies programme meaning that a significant majority of primary phase schools are now their own admission authority.
- 3.15. Of 450 primary phase schools in Essex currently, Essex County Council is the admission authority for 150 community and voluntary controlled schools. The other 300 are all 'own admission authority' schools i.e. academies, foundation or voluntary aided schools. The Council therefore has no legal duty to co-ordinate in-year applications for these 300 schools and the schools are permitted, by law, to handle their own in-year applications. Other local authorities, such as Hertfordshire County Council and Suffolk County Council already have in place arrangements where parents apply directly to the admission authority for in year places. For schools which are their own admission authority, applications are made directly to the school.
- 3.16. Against this backdrop, the Council recently carried out a 4 week consultation (between 13 September 2021 and 11 October 2021) with all primary phase schools in Essex proposing that, with effect from 1 April 2022, all 'own admission authority' such schools handle their own in-year applications.
- 3.17. The reasons for consulting and proposing this change are numerous. Firstly, the process whereby parents apply to the Council for all in-year primary applications means the Council has to approach multiple schools about place availability and co-ordinate all responses from different admission authorities, prior to confirming an outcome to parents. If parents applied directly to own admission authority schools, the schools could respond much more quickly to parents, rather than sending information to the Council for the Council to respond to parents.
- 3.18. To elaborate on this point further, as an example, if a parent applied directly to an own admission authority school and that school could offer a place, the outcome could be confirmed to the parent in a matter of hours, or within a few days. The child could then start school immediately. Whereas, a parent applying to the Council would need to wait for the Council to then contact the school (and any other schools the parent applied for), await responses from those schools before then notifying the parent of the outcome.
- 3.19. Own admission authority schools are responsible for preparing and presenting their own appeals to an independent appeal panel where a parent submits an

appeal. Under the current arrangements, because the application form is sent to the Local Authority (and the subsequent decision letter sent by the Local Authority), own admission authority schools then need to request a copy of these documents from the Local Authority which elongates the process. If schools handled their own applications, they would have the necessary documents immediately to hand upon receipt of an appeal.

- 3.20. Furthermore, with decision letters currently sent by the Local Authority (LA), parents will often have follow up enquiries about a school refusing a place and direct these to the LA as they perceive the LA to be the responsible body since the letter came from the LA. However, the LA is not best placed to answer such enquiries (for example, about class organisation) and own admission authority schools themselves, as the responsible body, would be better placed to respond. If parents' interaction is with the schools directly, they are more likely to raise such enquiries with the school who can answer their questions.
- 3.21. There are, of course, some potential drawbacks to the proposed change. For example, parents will have to apply separately to different own admission authority schools, rather than one single application to the LA (although they will still be able to apply for up to 4 community and voluntary controlled schools on a single application to the LA).
- 3.22. The situation could arise whereby a parent applies directly to one or more own admission authority schools, who are unable to offer their child a place. If applying through the Council, in such cases, the Council would identify and offer a place at the nearest school with space. Whilst this is a legitimate concern, the Council will still continue to act on behalf of a parent when they are refused a place by own admission authority schools, in the same way as it does now for parents seeking an in-year place at a secondary school. Upon receipt of formal notification from a school or a parent of a refusal (schools are duty bound under the School Admissions Code to share outcomes with the LA), the Council can and will intervene to support parents in securing a place at a school where this is necessary i.e. when the child is without a school place.

4. Consultation summary

- 4.1. 53 schools responded during the consultation period on the proposed changes to the management of in-year primary admissions.
- 4.2. Of these, 30 schools responded in support of the proposals. Their comments included their view that they felt the proposed change would work quicker and better for parents and schools. Schools also remarked how the current process of parents having to apply to the Local Authority led to unnecessary delays. Schools also commented on how they felt they could easily manage the proposed change.
- 4.3. 11 schools responded against the proposals. Their comments included their concerns about the potential impact on school administrative staff in having to handle applications directly, rather than respond to the Council. These schools

also expressed concern that parents may not be treated fairly and equitably by all schools and that the de-centralisation of the process would create and add this risk. Further, comments were made about the proposed new process being confusing for parents in respect of who they apply to based on the type of school.

- 4.4 In response to these concerns, the position is as follows. School staff currently already have to respond to the Council on applications made for their school – instead, in future, they would simply need to populate a standard letter template either offering or refusing a place directly to the parent. It should also be noted that own admission authority schools have funding allocated in their budgets for the purposes of acting as an admission authority. In regard to the concern about equity, all schools must comply with the statutory School Admissions Code, a requirement of which is to notify the Local Authority of the outcome of every application. As for the process being clear for parents, the Council can configure its information in such a way as to make it explicitly clear how a parent applies for the respective schools and provide a common application form for this purpose.
- 4.5. A further 12 schools responded neither explicitly in support nor against the proposals. They raised queries such as how the Council would know about children not offered a place, whether the appeals process would change and whether the Council would offer advice to schools on how to handle applications. They also commented about the potential extra workload on school administrative staff. Clarification was provided that schools must, under the Code, inform the Council of the outcome of any applications they receive, that the appeals process was unaffected by the proposed change (although it should speed the process up for own admission authority schools for the reasons stated in paragraph 3.19 of this report). Confirmation was also given to schools who asked that the Council would provide advice and share a standard template application form and example outcome letters so that instead of responding to the Council, schools could easily respond to parents directly.
- 4.6. Having considered the consultation responses, the recommendation to the Cabinet Member is to proceed with the proposed changes.

5. Links to our Strategic Ambitions

- 5.1. These arrangements align with the *Essex Organisation Strategy*, which has a number of aims, one of which is to improve educational attainment and enhance skills. A lawful, fair and procedurally sound school admissions process contributes towards that aim.

6. Financial Implications

- 6.1. The changes in this decision relate to the in-year admission process and have no financial implications. The process for the vast majority of school admission applications will remain unchanged as the normal admission

rounds for children starting primary and secondary school are unaffected by this decision.

- 6.2. Whilst the applications for own admission authority schools will be handled by schools directly (with the benefits outlined in terms of parents receiving outcomes quicker), schools are still required to notify the Council of every application outcome which the Council will still need to record and action. Therefore, there is no service reduction to the resource required.

7. Legal Implications

- 7.1. The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 require all local authorities to adopt qualifying schemes for the co-ordination of pupil admissions in their area
- 7.2. For admissions in the 2023-2024 academic year, these regulations require such schemes to be adopted by no later than 28 February 2022, with notification to be sent to the Secretary of State no later than 28 February that qualifying schemes have been adopted. Where such notification is not sent, the Secretary of State may impose a scheme upon a local authority.
- 7.3. By adopting the schemes in the attached schedules, the Council will be fulfilling its statutory requirement to adopt compliant schemes.

8. Staffing and other resource implications

- 8.1. No additional human resources beyond existing resources will be required as a result on this decision. There are no employment legislation implications.

9. Equality and Diversity implications

- 9.1. In making this decision ECC must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act 2010, i.e. have due regard to the need to: A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. B. Advance equality of opportunity between people who share a protected characteristic and those who do not. C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 9.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- 9.3. The PSED is a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149, is only one factor that needs to be considered, and may be balanced against other relevant factors.

- 9.4. The requirements of qualifying co-ordinated admission schemes are largely laid down by statute and the regulations referred to previously. The equality impact assessment attached indicates that the schemes, including the proposed changes to the handling of in-year applications, do not propose any arrangements that provide for any unlawful discrimination in relation to the protected characteristics set out in 9.2 above and they are not anticipated to have a disproportionate impact on any persons with a particular protected characteristic.

10. List of appendices

- 10.1. Schedule 1 - Co-ordinated scheme for primary admissions 2023-2024
- 10.2. Schedule 2 – Co-ordinated scheme for junior admissions 2023-2024
- 10.3. Schedule 3 - Co-ordinated scheme for secondary admissions 2023-2024
- 10.4. Equality impact assessment

11. List of Background Papers

- 11.1 The School Admissions Code 2021

Role	Date
I agree the recommendations in this report for the reasons set out in the report.	19 October 2021
Cllr Tony Ball, Cabinet Member for Education Excellence, Lifelong Learning and Employability	

In consultation with	
Executive Director for Corporate Services (S151 Officer)	
Approved by Andrew Page, Head of Finance	15 October 2021
Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	11 October 2021
Paul Turner	
Director, Education	16 October 2021
Clare Kershaw	