

**Consultation**

**Launch Date: 27 May 2011**

**Respond by 12 weeks from Launch date**

## **Consultation on the Changes to the Admissions Framework**

In the White Paper 'The Importance of Teaching', Rt Hon Michael Gove MP, Secretary of State for Education, announced a review of the school admissions system to make it simpler, fairer and more transparent, building on the principle of placing trust back in schools and head teachers.

The Department would welcome views on the draft School Admissions Code and draft School Admission Appeals Code, which are at the centre of proposed changes to the admissions system.

# Consultation on the Changes to the Admissions Framework

## A Consultation

**To** Schools, Governing Bodies, Local Authorities, Parents, Faith Groups, other Key Stakeholders

**Issued** 27 May 2011

### **Contact Details**

If your enquiry is related to the content of the consultation, you can contact the PCU telephone help line on: 0370 000 2288.

### **Enquiries**

**To** If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Consultation Unit by e-mail: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288.

## 1 Impact Assessment

Our initial assessment of the proposed changes concludes that they do not impose any new information obligations, nor do they impose any new administrative or policy burdens of £5 million (equivalent annual cost) or more on the maintained schools sector. We consider there to be no discernible impact on schools in the private sector arising from these proposals. We would welcome any information to inform our assessment, which will be published before the School Admissions Code and School Admission Appeals Code (the Codes) are laid before Parliament.

The school admissions framework is intended to ensure that the system is administered fairly on behalf of all children, and in doing so to help to advance equity of treatment in considering disability, ethnicity, gender and ability.

In constructing this consultation document and the draft Codes, we have considered the implications for disability equality, gender equality and race equality, and this has shaped our policy proposals. Following this consultation we will publish a full analysis that reflects the responses we receive about equity of treatment in admissions; in particular, we shall consider carefully any implications around sexual orientation, religion or belief.

## 2 Changes to Regulations

The outcome of this consultation will require some changes to the regulations that, along with the Codes, govern the admission and appeals process. We propose to issue another consultation following this one focussing solely on those regulations, inviting comments on any proposed changes.

## 3 Summary

The Department intends to remove many of the unnecessary and costly prescriptive burdens on schools and local authorities. This consultation seeks views on the changes to simplify the Codes.

The Codes have evolved over a number of years, with successive versions adding additional regulation in response to specific policy issues. As a result they are now overly complex, repetitive and, for many in the system, confusing. The current Codes represent over 130 pages of densely worded text, with more than 660 mandatory requirements.

The draft Codes are around a third of their original size and are much clearer in terms of what admission authorities must and must not do. They have been written from an assumption that all schools and admission authorities seek to comply with the Codes.

This assumption is backed by the Chief Schools Adjudicator in his evidence to the Education Select Committee on 2 February 2011, that *"most of the disagreements are resolved locally ... and continue to be resolved locally"*, and that *"the vast majority of admissions authorities ... if they are breaching the rules, don't mean to be doing so."* His 2009/10 annual report shows that he received fewer than 400 complaints during the last admissions round, yet there are more than 6,000 admission authorities, of which only 152 are local authorities.

These changes are not about weakening the admissions system but removing many of the unnecessary burdens for schools and local authorities to allow them to focus on setting clearer, fairer admission arrangements. This Government believes that this system will be simpler for parents to navigate and more transparent.

## 4 What are the Drafting Changes?

In line with the feedback we received during the review of the admissions framework we have removed duplicate and unnecessary material as well as confusing elements that led to admission authorities interpreting the Codes in different ways. This includes all of the sections that referred to what an admission authority 'should' or 'should not' do.

We want admission authorities to be clearer about their admission arrangements, consult with their local communities and partners, and address any objections that are found to be unlawful. Admission authorities must be accountable to those affected by those arrangements.

There are, however, a number of key safeguards being retained and reinforced, over and above recourse to the Schools Adjudicators. These key principles are that:

- All relevant requirements must be in a single place - the Code - allowing those reading the Code to understand the full set of requirements. There will still be regulations, as they are a key part of the legislative framework, but which confirm the Code rather than add another layer of prescriptive requirements. This should ensure that anyone can understand the basic requirements of the Admissions Code without requiring a solicitor to interpret it;
- All admission arrangements must be clear, fair, objective and easily understood by parents;
- Subject to Royal Assent of the Education Bill, the Schools Adjudicator will have the power to hear objections to admission arrangements of all state-funded schools, including those of Academies. As now, the Adjudicator will be able to make binding decisions on all objections referred to him as well as having the discretion to consider any wider issues in admission arrangements;
- All admission authorities will still have to convene independent appeal panels to hear parental appeals against a decision not to offer a place at a preferred school;
- All schools and admissions authorities must participate in the locally agreed Fair Access Protocols to ensure that children who are struggling to find a school place, especially the most vulnerable, can do so quickly.

## 5 General Aims

We have sought to remove all duplication and sections of the Codes that were open to (mis)interpretation, so it is clearer what admission authorities must and must not do within the new Codes as well as making them easier to read and understand.

One of the aims of reviewing the Codes was to reduce the burdens and bureaucracy that schools face by removing unnecessary prescription and elements that drove cost into the process.

The revised Codes should ensure that all school places are offered in a fair and lawful way and that school admission appeals are heard in a fair and lawful way.

### **Question 1: Do you agree that the new Codes achieve these aims?**

We welcome any views you have on the overall aims of the Codes.

## 6 Key policy changes for consultation

This consultation seeks views on a small number of key policy changes, all of which intend to deal with issues which can create unfairness in the system or which frustrate and confuse parents who seek to ensure that their child gets into a suitable school as quickly as possible.

### **Changes to the Admissions Code**

#### **The removal of the requirement on local authorities to coordinate in year admissions.**

Some local authorities are facing a real challenge in managing the large and growing numbers of applications for a school place outside the normal admission rounds.

This means that increasingly large numbers of parents are facing delays in getting their children into a school. Instead, we propose to move to a position where a parent, applying for a school place outside of the normal admissions round, would still make initial contact with their local authority. They are responsible for the composite prospectus and also have a statutory duty to provide information to parents on schools and admissions in their area. The local authority would be able to provide suitable application forms and advise on which schools in their area were over-subscribed. Parents would then apply directly to the schools and those schools would process the forms, notifying the local authority of both the application and the

outcome. Parents will continue to have a right of appeal against a decision not to offer a place.

We believe that this will ensure that parents looking to find a place outside the normal admissions round are able to do so as quickly as possible, without delays from overly bureaucratic processes, and that fewer children will miss education for any lengthy period.

### **Changes to the Published Admission Number (PAN)**

All schools must have a published admission number (PAN) for each age group in which pupils are or would normally be admitted to the school. The PAN forms part of the admission arrangements for the school. The current Admissions Code and associated regulations set out requirements in relation to PAN, including: restrictions on admitting above PAN, changing PAN and consultation. This area of policy is a prime example of over-regulation which stifles the ambitions of schools in being able to offer parents more places.

We want all schools that are popular with parents to be free to increase their PAN, and thereby offer more parents more options for a place, whilst ensuring clarity in schools' locally-set policies. In deciding the appropriate mechanism to achieve this, we want to achieve the right balance between giving schools the light-touch regulation consistent with other reforms, and ensuring that local authorities can get on with their strategic role in planning schools places for their areas. We have therefore made the following changes in the Code in relation to PAN: schools will no longer have to get the approval of the local authority where they want to admit pupils in-year above PAN; this will allow for greater flexibility. There will be a requirement to notify the local authority of a change to PAN and to make reference to it on the school website. In line with our plans to de-regulate the system we shall enable anyone who feels local proposals to increase PAN are unreasonable to refer an objection to the Schools Adjudicator.

We shall be consulting with the Ministerial Advisory Group, which includes representations from schools, local authorities and voluntary and community groups on the potential such de-regulation has to address the issues parents face when trying to find a place for their child.

### **Question 2: Do you agree with the proposals to allow all popular and successful schools to increase their Published Admission Number?**

We welcome your views on what sort of criteria the Schools Adjudicator must take into account when he considers objections to an admission authority's plans to increase PAN.

## **Random allocation**

Since 2007 the School Admissions Code has allowed random allocation (often referred to as 'lotteries') as a permitted oversubscription criterion. It is most commonly used as a tiebreaker in individual schools, to choose between two otherwise equal applications. While it may be effective in certain limited situations we propose that it should not become the principal route for awarding school places across an entire local authority. Therefore we are proposing restricting the use of random allocation as an oversubscription criterion to individual schools.

## **Infant class size exceptions**

Currently, there is a statutory limit for infant school class sizes of 30 children per school teacher. There are several exceptions to this, to ensure that vulnerable children - such as those with special educational needs admitted outside the admissions round - are not disadvantaged. The limit of 30 will not change, but based on discussions with key stakeholders, we are proposing to add two new categories to the list of exceptions: twins (and other multiple birth children) and service children. Schools will now be able to admit children from these groups above the class size limit of 30 without falling foul of the regulations. This will avoid cases such as those where twins have ended up going to different schools or children of service personnel are disadvantaged by their need to relocate - often at short notice. We are also consulting on removing the requirement on admission authorities to take correcting measures to get back to 30 at the end of the year in which the excepted pupils enter the class. This will give schools more flexibility as to how they manage the class going forward and avoid having to take potentially expensive measures for one or two children.

## **Reduction in consultation requirements where no changes to admission arrangements are proposed**

Admission authorities currently must consult publicly on their proposed admission arrangements every three years, even if they are not proposing to make any changes to those arrangements. This can be costly and bureaucratic. We propose that admission authorities should only be required to consult on their admission arrangements once every 7 years if no changes are proposed to their admission arrangements. Clearly any admission authority which seeks to make changes to their admission arrangements must consult on those changes before they are determined, other than an increase to the PAN.

## **Giving admissions priority to children attracting the Pupil Premium**

Children who are eligible for Free School Meals (FSM) – in the future, attracting the Pupil Premium – come from some of our most vulnerable groups and their parents often lack the resources to help them access our more successful schools. It is one of this Government's priorities to break the cycle of deprivation. So we wish to give a permissive approach to those schools who believe that children attracting the Pupil Premium would thrive in their educational care. In the White Paper "The Importance of Teaching" we stated our intention that we would give this permissive approach to Academies and Free Schools.

### **Question 3:**

**Do you agree that Academies and Free Schools should be able to give priority to children attracting the Pupil Premium in their admission arrangements?**

We welcome views and ideas on how best to balance the drive to raise attainment for some of our most vulnerable groups and yet maintain the drive to reduce the burden on our schools.

### **Children of school staff**

Currently, admission authorities cannot give any priority to the children of members of their staff unless there is a demonstrable skill shortage. Given the importance that this Government places on the need to put our trust in schools, we believe that this restriction leads to some schools losing out on potentially very valuable members of staff as they seek to balance work and life as a parent. Therefore, we propose to allow children of staff at the school to be included as an oversubscription criterion. If admission authorities wish to use this permissive criterion, then it would be for them to define what they mean by 'staff' and whether it was to cover teaching or non-teaching staff, including those undertaking tasks such as catering and cleaning.

### **Changes to objections to the Schools Adjudicator**

The Schools Adjudicator provides a valued service which plays a vital role in giving parents and others the confidence that the admissions system is fair and transparent. We wish to strengthen that role in a manner that is consistent with our overall policy drive to place trust in our schools. Therefore, we are proposing to make a small but important number of changes to the role and functions of the Schools Adjudicator.

- Currently, all objections to the Schools Adjudicator about the

determined admission arrangements of any maintained school must be made by 31 July, although later referrals can be considered at the Schools Adjudicator's discretion. As the current deadline comes at the start of the summer holidays, it can be difficult for schools to respond to requests for information from the Schools Adjudicator in time. We believe that this timetable can delay the local implementation of decisions and put pressure on the local authority to amend local prospectuses, potentially giving parents incorrect information about schools. To enable more time for admission authorities to respond, we propose to change the deadline for objections to be referred to the Schools Adjudicator to 30 June.

- Secondly, we currently specify in regulations a lengthy list of who can object to admission arrangements. We do not believe that this is consistent with local accountability and so we will change the regulations to make it possible for anyone to object to the admission arrangements of a state funded school.

## 7 The Admissions Code: Questions on the key policy changes

### 7.1 In year Co-ordination

**Question 4: Do you support the proposal to remove the requirement for local authorities to co-ordinate in year applications?**

#### Use of Random Allocation

**Question 5: Do you support the proposed change to the use of random allocation?**

#### Infant Class size exceptions

**Question 6: Do you support proposals to add twins (and multiple births) and children of service personnel to the list of excepted pupils?**

#### Reduction in Consultation

**Question 7: Do you agree with the proposal that admission authorities who are making no change to their arrangements year on year should only be required to consult once every seven years, rather than once every three years?**

#### Allowing priority to children of staff

**Question 8: Do you agree with the proposal to allow schools to**

**give priority to applications for children of staff in their over-subscription criteria?**

### **Changes to objections to the Schools Adjudicator**

**Question 9: Do you agree that anyone should be able to raise an objection about the admission arrangements they consider unfair or unlawful, of any school?**

**Question 10: Do you agree that the deadline for objections to the Schools Adjudicator should be moved to 30 June from 31 July?**

## **CHANGES TO THE APPEALS CODE**

Our aims in revising the Appeals Code have been to simplify and improve the admission appeals system, reduce cost and bureaucracy for schools in line with giving them more autonomy, whilst ensuring that the appeals system remains fair and objective.

### **Changes which will simplify and improve the Appeals Code and the appeals system**

We have removed the requirement in the Appeals Code for appeal panels to refer unlawful admission arrangements to the Schools Adjudicator because, at the time of an appeal, the admission arrangements have already been used to allocate places. Instead, we will require panels to refer such arrangements to the local authority, and the admission authority if applicable, to prompt them to be reconsidered for arrangements for the next admissions round.

The current Appeals Code sets out a timetable for appeals, which admission authorities can find difficult and costly to adhere to. The revised Appeals Code will provide admission authorities with flexibility to set a timetable for exchanging information that takes into consideration their local circumstances, within an overall framework consisting of working days in which cases must be heard. As part of that framework we propose to introduce a requirement that admission authorities give parents at least 30 working days from receiving an offer to prepare and lodge an appeal. Currently, parents need only be given 10 days to do this. This can have the effect of parents lodging an appeal quickly rather than considering other options. This is backed up by the fact that almost 20 percent of appeals lodged are not taken forward. By giving parents more time to consider the offer made and talk to the local authority, we believe that fewer appeals will be lodged.

These changes, in combination, are designed to provide more clarity

for parents and a clearer timeline for admission authorities to plan and organise the appeals process.

The current Appeals Code requires appeal panels to follow a two stage process for hearing individual and multiple appeals (other than infant class size appeals). The two stage process lacks clarity and provides inadequate guidance on how to hear multiple appeals. The revised Appeals Code splits the two stages of this process into three: the lawfulness and correct application of the arrangements; whether prejudice will arise; and finally, the panel balancing the arguments. This is designed to clarify and separate the considerations and decisions a panel must take, both for multiple and individual appeals.

### **Changes which will reduce costs and bureaucracy for schools**

We propose the removal of the requirement for all appeals in a multiple appeal for a school to be re-heard if a member of the panel withdraws. Instead, we will require postponing the remaining appeals until the third member returns or the admission authority appoints a third member. If the member is withdrawn before an appeal hearing is completed the appeal will have to be reheard. We consider this proportionate to the resource and time cost of having to re-hear large multiple appeals, but a reconstituted appeal panel may still decide to re-hear all appeals if it chooses to.

The current Appeals Code requires admission authorities to accept evidence provided by parents at any stage of the appeal process, including on the day of the hearing. Late evidence can mean the panel has to adjourn the hearing to allow the admission authority to consider and respond to the evidence. The revised Appeals Code gives parents at least two opportunities to provide evidence, including a new requirement that parents can be requested to provide initial evidence when lodging an appeal. The increased time period for making an appeal will make it easier for parents to submit more complete evidence at this stage. Appeal panels will be able to decide what action would be appropriate when evidence is submitted late, and the Appeals Code will require admission authorities to inform parents that any information or evidence not received in advance of the hearing may not be considered at the appeal.

We propose to remove the requirement for admission authorities to advertise for lay appeal members every three years. Instead, we will require them to ensure that panel members retain their independence for the duration of their service.

We have relaxed the guidelines that advised admission authorities against hearing appeals in school premises. Admission authorities will have to hear appeals in appropriate venues, but without requiring a

costly venue hire, when the school itself could be a venue.

We propose to relax the requirements for admission authorities to provide training for appeal panel members. Currently this is required every two years and includes annual updates, but we believe that this is a costly over-prescription. All panel members will still have to be trained before serving on the panel, but thereafter it will be for individual members or panels and the admission authorities to agree when training is required. Where extra training is required, it would be for the admission authority to organise and fund.

## 8 The Appeals Code: Questions on the key policy changes

### 8.1 **Operation and governance of appeals panels**

**Question 11: Do you agree with the less prescriptive requirements around the operation, governance and training of appeals panels?**

We welcome any views you may have on how this less prescriptive approach may affect the operation of appeals panels and their impartial decision making.

#### **Timetable for appeals**

**Question 12: Do you agree that the proposed appeals timetable will give more certainty to parents and reduce the number of appeals overall?**

We welcome any views you may have on this proposed timetable.

**Question 13: Do you agree that the proposed new timetable for lodging and hearing appeals will reduce costs and bureaucracy for admission authorities?**

We welcome any views you may have on this proposed timetable and how we can further reduce the burden and costs on admission authorities.

#### **Three stage process**

**Question 14: Do you agree that the new three stage process will provide a more effective process for appeals panels to consider multiple and individual appeals?**

We welcome any views you may have on this proposed timetable and how we can further reduce the burden and costs on admission authorities.

## 9 Key changes in the Education Bill 2011 (Primary Legislation)

### 9.1 **The revised Admissions Code has been drafted with reference to provisions that are contained within the Education Bill. They are explained here, although not part of the formal Consultation on the Codes.**

#### **Schools Adjudicator**

1. The Schools Adjudicator is an important aspect of the school admissions framework. As now the Schools Adjudicator will consider all objections to admission arrangements for maintained schools. The Bill will extend the Schools Adjudicator's remit so that he will also be able to consider objections in respect of admission arrangements for Academies.

2. We believe it is crucial that we put our trust back in schools and teachers. According to the Chief Adjudicator, the vast majority of schools and admission authorities are compliant and seek to be compliant. It cannot be right that the Schools Adjudicator can impose admission arrangements unilaterally, so we intend to remove the Schools Adjudicator's ability to modify a school's arrangements in a determination. His ability to consider specific objections and his discretion to examine other aspects of admissions arrangements remains, as does the binding nature of his decisions. But the legal responsibility will remain with the admission authority to bring their admission arrangements into line with mandatory requirements in order to comply with the Schools Adjudicator's determination.

#### **Local Authorities**

##### **Remove the requirements on local authorities in England to set up Admission Forums.**

3. Admission Forums can be an administrative burden on local authorities and communities, imposed by the Education Act 2002. In the current economic climate we do not believe it is right that we should impose such duties, especially when the experiences of those are so mixed. So rather than impose across all areas a requirement to have a Forum, we shall remove that duty through the Bill and leave it to local partnerships to develop and grow. We already know of a number of areas where such partnerships want to continue to operate in a voluntary arrangement.

##### **Remove the requirement for local authorities to report annually to the Schools Adjudicator on how fair access is working in their areas.**

4. Whilst we will still require local authorities to produce an annual

report on admissions in their area, our working assumption is a report much like a report local authority officers might send to their scrutiny committee. We shall not require that to be sent to the Schools Adjudicator, but will require that the report be published locally to shift the focus on providing parents and communities with this information instead. The Code will still require local authorities to report on admission arrangements in their area (including how well they support children with SEN and those looked after children; how well Fair Access Protocols operate in their areas and any other matters that the local authority feels are relevant to their communities).

## 10 How to Respond

- 10.1 This questionnaire takes about 30 minutes to complete online. We encourage you to complete as many of the questions as possible giving as much detail in your response and any supporting evidence.

You can fill in the questionnaire by:

Completing the form online at [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations); or

Downloading a response form and e-mailing it to:  
[admissions.consultation@education.gsi.gov.uk](mailto:admissions.consultation@education.gsi.gov.uk)

or by downloading a response form which should be completed and sent to:

Consultation Unit,  
Area 1C,  
Castle View House,  
East Lane,  
Runcorn,  
Cheshire,  
WA7 2GJ

## 11 Additional Copies

- 11.1 Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at:  
<http://www.education.gov.uk/consultations>

## 12 Plans for making results public

- 12.1 It is our stated intention to publish for information a revised set of Codes, taking account of any changes, by the end of September 2011. This is to allow admission authorities seeking to determine their arrangements for 2013, in line with this Code, the maximum possible time to consider the proposed Codes. We aim to bring the Codes into Force in early 2012, subject to the Passage of the Education Bill 2011

and Parliamentary process. We shall publish a full response to the consultation at the same time as publishing the Codes in September 2011.