

**DETERMINED ADMISSION ARRANGEMENTS 2008 – VOLUNTARY-AIDED  
AND FOUNDATION SCHOOLS**

Report of the Director of Children, Schools and Families

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**1. Purpose of the Report**

- 1.1 In accordance with the decisions reached by the Admission Forum at its meeting on 12 March, this report highlights the further activity undertaken in order to achieve compliant arrangements for admission 2008.
- 1.2 The report also seeks feedback from the Forum concerning any views the Forum wishes to make to the Office of the Schools Adjudicator (OSA), where the local authority is required to make objections because arrangements do not comply with the mandatory provisions and/or are unlawful.

**2. Summary**

- 2.1 This paper provides an overview of the separate roles of the Admission Forum and the local authority concerning the monitoring of determined admission arrangements.
- 2.2 The paper also outlines the actions taken since the last Forum meeting held on 12 March, both by the Forum and the local authority.
- 2.3 The Forum needs to agree the view they wish to state with regard to any schools where the local authority is required to make objections.

**3. Conclusion**

The Forum is asked to:

- (a) agree to the approach to be taken to any responses to the Schools Adjudicator, where the LA is required to make objections. The areas the Forum should focus on relate to those listed in sections 9, 10 and 11.

(b) support an approach whereby the local authority works with diocesan representatives and admission authorities in the autumn term, in order to achieve arrangements for 2009 which are:

- (i) compliant with the mandatory provisions of the Code,
- (ii) comply with the law and
- (iii) are clear, fair and objective

#### **4. Background**

4.1 Following the Admission Forum meeting held on 12 March 2007, all schools received a letter from the Forum providing an update on the plan of action to achieve compliant arrangements for 2008.

4.2 This plan of action was circulated on 21 March 2007 with the intention of helping to provide support and guidance for admission authorities in order to achieve compliance with the mandatory provisions of the Code.

4.3 This communication from the Admission Forum provided the following information:

- the new Code of Practice became effective from 28 February 2007 for 2008 admission arrangements;
- an overview of the framework relating to the mandatory provisions of the code.

4.4 The communication also provided a checklist for admission authorities. This checklist outlines those areas which are considered by the Admission Forum to be a priority, as they relate to mandatory aspects of the Code.

#### **5. DfES Admissions Code of Practice**

5.1 The new DfES School Admissions Code of Practice which became effective 28 February 2007, for 2008 admissions, has a legal status which supersedes that of previous codes of practice. Specifically the new code has a stronger statutory basis, and all admission authorities are required to *act in accordance* with the mandatory provisions, whereas they had only to have regard to earlier versions.

#### **6. Role of the Local Authority**

6.1 Local authorities have a duty under section 13A of the Education Act 1996 (as substituted by the Education and Inspections Act 2006) to ensure fair access to educational opportunity and have a key role in ensuring that school admission arrangements are lawful and comply with the mandatory provisions of this Code. They must ensure that admission arrangements for

schools in their area for which they are the admission authority are clear, objective and fair.

- 6.2 In accordance with the Education (Determination of Admission Arrangements) (Amendment) Regulations 1999 (SI 1999/126) as amended by SI 2002/2896 and SI 2007/497 the local authority is required to publish a notice in a local newspaper as soon as all admission authorities for schools in the area have determined admission arrangements, setting out details of how they can be inspected. Notices have been published in the following newspapers: Hemel Hempstead Gazette, Welwyn Hatfield Times, Herts Advertiser, Watford Observer, Herts and Essex Observer, Borehamwood Times, Comet Series, St Albans Observer and Hertfordshire Mercury. Arrangements are available for inspection at: County Hall, Pegs Lane, Hertford, SG13 8DF; East Area Office, Old Grammar School, Broadway, Letchworth, SG6 3TD; West Area Office, Apsley One, Brindley Way, Hemel Hempstead, HP3 9BF. Parents have six weeks from the publication date of the notice in which to lodge objections.
- 6.3 This new code contrasts with previous codes, where there was a degree of discretion on the part of local authorities as to whether they referred objections to the OSA, albeit there was an expectation they would do so. The new DfES School Admissions Code of Practice has imposed a mandatory requirement upon local authorities to refer objections. Paragraph 4.6 states “Local Authorities **must** use their powers to refer objections to the Schools Adjudicator if they consider, or are made aware of, any admission arrangements proposed by any other admission authority that are unlawful, that do not comply with the mandatory requirements or guidelines in this Code, or that appear to be unfair, unclear, subjective or encouraging social segregation”.
- 6.4 Paragraph 4.6 needs to be considered in conjunction with paragraph 4.20 which states “Objections should be made within six weeks of the date on which the objecting body received notification from the admission authority of its determined arrangements . . . . Adjudicators have discretion to consider late objections, but will need to be persuaded that it was not reasonably practicable for them to have been submitted earlier”. Not only must LAs make referrals where arrangements are unlawful but any referrals should be timely, ie within six weeks of receiving notification.
- 6.5 As outlined in paragraph 4.8 of the code, local authorities may be held to account by the Local Government Ombudsman if, having been made aware of admission arrangements that are unfair, unlawful or do not comply with the Code, they do not refer objections to the Schools Adjudicator.

## **7. Role of the Admission Forum**

- 7.1 As previously drawn to the Forum’s attention, the Admission Forum, in discharging its responsibilities, has a separate role concerning proposed and determined admission arrangements. Paragraph 4.11 (a) states that in discharging their responsibilities, Admissions Forums **should** “refer an

objection to the Schools Adjudicator where either it identifies policy, practice or oversubscription criteria of a school that may be unfair, unlawful or that contravene the mandatory provisions of this Code, or where their advice has been disregarded by admission authorities;”.

- 7.2 Additionally, the Code is explicit concerning the role of the Forum in issuing advice. Admission authorities of all maintained schools **must** have regard to any such advice offered by the Forum.
- 7.3 Whilst the LA **must** refer to the Adjudicator and the Forum **should**, it is the latter which should, increasingly, take a lead in such matters. Next year, it will be necessary to bear this in mind when setting dates for the Forum to meet.

**8. Determined Admission Arrangements – Current Situation**

- 8.1 There are 129 admission authorities in Hertfordshire. Appendix 1 lists every admission authority, together with the date the determined arrangements were received and the deadline for any referral.
- 8.2 Detailed monitoring and analysis of each admission authority’s rules is underway based on the requirements of the prioritised mandatory provisions of the Code. This activity is being conducted on a rolling programme.
- 8.3 Cabinet, at its meeting on 23 April 2007, agreed the mechanism for considering and making objections to the admission arrangements to the OSA, where these do not comply with the mandatory requirements of the new Code. The table below illustrates how the tranches of determined arrangements (based on deadlines for referral) will be scrutinized by the local authority and where necessary a recommendation made to Cabinet. Part of this process involves feedback to admission authorities and diocesan representatives, where applicable, giving them the opportunity to amend their arrangements prior to submission to Cabinet.

<b>Tranche Number</b>	<b>For admission authorities with the six week deadline date of:</b>	<b>Date of Cabinet meeting</b>
1	1st - 4th May	Monday 30 April
2	7th - 10th May	Friday 4 May
3	11th - 17th May	Friday 11 May
4	18th - 24th May	Friday 18 May
5	25th - 31st May	Friday 25 May
6	1st – 7th June	Friday 1 June

**9. Tranche 1:**

- 9.1 Appendix 2 summarises the issues for the first tranche of admission authorities (ie those with a deadline for referral to the OSA up and including 4 May 2007) where arrangements do not comply.

- 9.2 For the first tranche, where there is non compliance, following scrutiny and approval by the County Secretary (in his role as Monitoring Officer) and the Director of CSF, letters have been sent to admissions authorities where they are in breach of these. Telephone contact has been made with the majority of schools concerned, apart from a few, where headteachers have been unavailable. Diocesan representatives, where applicable, have also been contacted in order to work collectively to achieve compliant arrangements.
- 9.3 Each letter has requested the governing body to consider and take the necessary action to make the arrangements compliant. Where this is the case, the admission authorities have been asked to respond to the Director of CSF, with a response date of Friday 27 April 2007.
- 9.4 The range of issues include the following:
- Children with Statements of Special Educational Needs as an oversubscription criterion
  - Requirement to complete the Supplementary Information Form as well as the County Form, otherwise applicants will not be considered for a place – failure to comply with the Scheme of Co-ordination
  - Children of Staff and
  - Percentage of partial selection (see Appendix 4 for detail)
- 9.5 Of this first tranche, as at 3 May, there are two admission authorities, where their arrangements are in breach of Paragraph 2.71(b) of the Code and Section 100 of the Schools, Standards and Framework Act 1998 as amended by section 53 of the Education and Inspections Act 2006 and this relates to the level of selection.
- 9.6 Cabinet, at its meeting on 30 April, agreed to make referrals to the OSA for those schools in Tranche 1 where compliant arrangements are not received by the deadline for referral. With regard to partially selective schools, Cabinet’s resolution included the following:
- “It (Cabinet) has no alternative but to authorise the County Secretary, in order to comply with the Local Authority’s obligations under the Schools Admissions Code to submit resolution (A) to the Office of the Schools Adjudicator except
- (a) in respect of any school which makes appropriate changes in the admission arrangements before the deadline date for referral and/or
  - (b) should submissions on behalf of any of the schools received before the deadline date call into question the legal advice provided to Cabinet by the County Secretary

The County Council reserves the right to withdraw any objection in response to changed legal advice.”

9.7 The situation concerning Tranche 1, as at 3 May, is as follows:

School	6 week deadline for submission of objection
All Saints C of E Primary and Nursery*	2 May 2007
Brookmans Park	2 May 2007
Parmiter's	3 May 2007
St Joseph's Catholic Primary School	2 May 2007
Watford Grammar School for Boys	3 May 2007

School which are now compliant
Countess Anne C of E Primary School
Cuffley School
Rickmansworth
The John Warner School

\* Revised arrangements were received after the submission of the referral to Adjudicator. In accordance with the Cabinet decision (30 April), the Director of CSF, in consultation with the Executive Member for Education, will request a withdrawal of the referral from the OSA

## 10. Tranche 2

10.1 For the second tranche, where there is non compliance, following scrutiny and approval by the County Secretary (in his role as Monitoring Officer) and the Director of CSF, letters have been sent to admissions authorities where they are in breach of these. A total of 15 admission authorities were written to (see Appendix 3), and as at Wednesday 2 May 2007 four have modified their arrangements to ensure compliance. Where compliant arrangements are not received, as agreed by the Director of CSF and the County Secretary, Cabinet will be asked to approve referrals to the OSA, at its meeting on Friday 4 May 2007.

10.2 The range of issues in Tranche 2 include the following:

- Children with Statements of Special Educational Needs as an oversubscription criterion
- Looked After Children – (a) priority for those of the faith and those not of the faith, (b) qualification 'at the time of admission'
- Sibling at the time of application
- Requirement to complete the Supplementary Information Form as well as the County Form, otherwise applicants will not be considered for a place until after the first round of admissions – failure to comply with the Scheme of Co-ordination
- No stated tiebreak
- The proportion of non-Catholic children attending shall not be allowed to rise above ten per cent of the whole without the written permission of the Trustees of the school

- Priority to children whose parents have been newly appointed to the school and where there is a recruitment justification, but there is no reference to the appointment being after the published offer date

## 11. Tranche 3

11.1 For the third tranche, where there is non compliance, following scrutiny and approval by the County Secretary (in his role as Monitoring Officer) and the Director of CSF, letters are being sent to 18 admissions authorities where they are in breach of these. Appendix 4 provides the detail. Admission authorities will be asked to respond to the Director of CSF by Thursday 10 May, in order that recommendations can be made to Cabinet at its meeting on Friday 11 May 2007.

11.2 Key themes include the following areas:

- Children with Statements of Special Educational Needs as an oversubscription criterion
- Looked After Children – (a) priority for those of the faith and those not of the faith
- Requirement to complete the Supplementary Information Form as well as the County Form, otherwise applicants will not be considered for a place – failure to comply with the Scheme of Co-ordination
- Supplementary Information Form – (a) information on status of ranking, (b) requesting personal details
- Discrimination against or disadvantage children with disabilities
- Sibling – lack of clarity
- Percentage of partial selection “Published admission or other such number to be agreed by the Governors”.

## 12. Tranches 4,5 and 6

12.1 Determined arrangements of admission authorities falling into **Tranches 4, 5 and 6** will be handled according to the process established above, with communication taking place with the governing body, the headteacher and the diocesan representative, where applicable.