

**SCHOOL ADMISSIONS: DfES CONSULTATION ON THE DRAFT SCHOOL ADMISSIONS CODE OF PRACTICE, SCHOOL ADMISSION APPEALS CODE OF PRACTICE AND ASSORTED REGULATIONS**

Author: Sarah Vize – Senior Manager Admissions & Transport  
Tel (01992 555933)

**1. Purpose of the Report**

- 1.1 The Admissions Forum is asked to note and comment on the proposed response to the current consultation on the draft School Admissions Code of Practice, School Admission Appeals Code of Practice and assorted regulations.

**2. Background**

- 2.1 The Admissions Forum plays a key role in considering existing and proposed admission arrangements. It has a duty to assess how well these arrangements serve the interests of local parents and children, in addition to promoting agreement on admissions issues. It is vital that the Codes on Admissions and Appeals provide clear guidance for the key players within the admissions arena, LEAs, Admissions Forums, Voluntary-aided and Foundation Schools acting as Admitting Authorities, Voluntary-controlled and Community Schools, Diocesan Authorities, parents. This draft Code of Practice has been developed to clarify and strengthen guidance, having taken account of recommendations made by the Education & Skills Select Committee.
- 2.2 Within this consultation, the DfES would particularly welcome comments on how the requirement to give priority to Looked After Children might apply in relation to faith schools, ie how could they assess whether a particular looked after child should be treated as being of their particular faith?
- 2.3 This consultation relates to updated Codes of Practice for School Admissions and School Admission Appeals. It is in response to the Education and Skills Select Committee's Report on Secondary Education: School Admissions, and there is the intention "to clarify and strengthen guidance and amend the Admissions Code to reflect the proposals set out in the DfES five year strategy relating to protocols for hard to place children". The Forum previously considered the findings of the summary report of the select committee at its meeting held on 14<sup>th</sup> October 2004. At the same time the DfES is also consulting on three sets of regulations:

1. Draft Regulations on setting out the details of the new duty to give priority to Looked After Children in publishing admission arrangements.
  2. Draft Regulations, which have the effect of preventing new selection by aptitude for ICT and Design and Technology;
  3. Draft Regulations which amend the Admission Appeals Arrangements Regulations. This amendment clarifies that, in infant class-size appeals, fresh evidence cannot be considered at the appeals stage except for material submitted by the parents in order to establish the factual basis for their claim that no reasonable admission authority would have made that decision.
- 2.4 The closing date for a response to the consultation is Tuesday 18 October 2005. The DfES has indicated they would particularly welcome comments on how the requirement to give priority to looked after children might apply in relation to faith schools, ie how could they assess whether a particular looked after child should be treated as being of their particular faith?
- 2.5 It is intended that the revised Codes of Practice would become effective January 2006, subject to Parliamentary approval. These revised Codes of Practice would apply to arrangements that lead to primary and secondary intakes for September 2007. With a planned introductory date of January 2006 of the new Code, it is possible some admitting authorities may find they need to review and modify their arrangements to meet the guidance of the new Code of Practice before determining their arrangements by 15 April 2006.
- 2.6 This is an electronic consultation, with the DfES consulting ten percent of individual admitting authorities' as well. The DfES has also consulted with the national associations. There are five consultation questions and these are as follows:
1. Comments on the School Admissions Code of Practice
  2. Comments on the School Admissions Appeals Code of Practice
  3. Comments on the Appeals Regulations
  4. Comments on the Aptitude Regulations
  5. Comments on the Looked after Children Regulations
- 2.7 The closing date for a response to the consultation is 18 October 2005.

### **3. Proposed Comments on the Draft Code of Practice on Admissions**

- 3.1 The LEA looks to guidance provided in such a code of practice to strike the right balance between helpful flexibility and unhelpful ambiguity in order that the LEA can make the best possible response to local circumstances.

The following is the proposed response from the LEA and the Forum is asked to either support this, or to consider whether it wishes to provide its own response to the consultation.

- 3.2 The Annex listing appropriate and acceptable oversubscription criteria is helpful in outlining the risks associated with particular criterion eg siblings. It outlines that admission authorities should consider the effects of the sibling criterion particularly where a disproportionate number of children attending the school do not live in the local area or there is an element of selection in the admission arrangements.
- 3.3 In the revised section on co-ordination of admission arrangements we note the discussion of the operation of Co-ordinated Schemes and in particular Annex D1: Model Timetable for the Admissions Cycle. While we understand that Ministers have not seen formal regulatory changes in this area as a priority, we do regret that there are missed opportunities to improve the operation of co-ordination, particularly between LEAs. We would have wished for a final closing date for applications to secondary schools to have been set for all English LEAs along with much tighter guidance on the number of preferences that can be made. There is a general awareness that these two matters have caused considerable difficulties for LEAs earlier this year and we feel that the failure to address these issues will continue to cause such difficulties in respect of Inter-LEA Co-ordination as well as causing some confusion for parents who are applying for a place at a school outside of their home LEA area.
- 3.4 The changes relating to the admission of Looked After Children supported by the new regulations are welcomed. We are aware that the draft CoP recommends, as good practice, that LAC not of the faith should have equal top priority with LAC of the faith. However, we recognise that it is the view of many diocesan authorities that faith schools have an overriding legal responsibility to admit children of the faith. It is understood that the DfES are working with the denominational groups to establish how to ascertain if a LAC child is of the faith. This is dealt with in Agenda Item 6.
- 3.5 It is noted that for Random Allocations, admitting authorities need to set out clearly how this will be operated, and that should such a process be used, consideration would need to be given on how to treat waiting lists where random allocation is used. Suggested good practice identifies that at each round of the waiting list, a fresh round of random allocation should be undertaken. It is further noted in the Annex B, that random allocation may be used as a tiebreaker after criteria such as looked after children and siblings to decide between applicants, in place of distance.
- 3.6 The guidance relating to consultation, has generally been strengthened throughout this draft. It refers to consultation providing full details of admission arrangements, which should be consistent with the co-ordinated scheme, and in particular the detailed list of items upon which to consult, offers greater transparency to other admitting authorities, LEAs and parents.

It is also noted that it is now being identified as good practice for LEAs to consult the governing bodies of community and VC schools before going out to wider consultation, without moving the consultation completion date of 1 March. This is presumably being included to link with 5.4 (Church of England schools must consult their Diocesan Board of Education before consulting others. It is good practice for Catholic schools similarly to consult their Diocese). Whilst this

provides an opportunity for community and VC schools to comment on matters which directly affect them, this proposed revision represents a whole extra stage of consultation with the same completion date.

- 3.7 We welcome the recent guidance on “Hard to Place Pupils” Protocols. This is further discussed under Agenda item 9.
- 3.8 Exceptionally, outside the normal year of entry, admission authorities for certain schools, or Academies, may decide to refuse to admit a child with challenging behaviour where there are places available, on the grounds that admission would prejudice the provision of efficient education or the efficient use of resources. This usually may only apply where there is a high concentration of pupils with challenging behaviour and other circumstances exist. The list of exceptional circumstances where this criterion may be applied needs under the third bullet point, to include all schools which have been open for less than 2 years, not just Fresh Start schools or Academies.
- 3.9 In looking at the role of head teachers in school admissions, the first sentence, “Head teachers have no individual role in school admissions” is open to misinterpretation. Clearly, head teachers have a considerable role in the overall admissions processes but they do not, and cannot, have an individual role in making a decision about the admission of an individual child. It would be helpful, therefore, if this paragraph were re-written in order to clarify what is.

#### **4. Appeals Code of Practice and related Regulations**

- 4.1 The revised Appeals Code is welcome as it clarifies the situation in a number of areas in light of recent case law. It also sets out clearly what is good practice on the part of panel chairs, panel members and panel clerks.
- (a) The annex on “the law” is welcomed.
- (b) Guidance on infant class-size appeals has been revised in line with the proposed change to Regulations. The revised section relating to Key Stage 1 class size appeals is helpful and clarifies the situation considerably in the light of recent case law.

#### **5. Looked After Children Draft Regulations**

- 5.1 These Regulations will require faith schools to give priority to LAC of their own faith, but allow them to follow this with priority to other children of their faith, followed by other LAC

#### **6. Conclusion**

- 6.1 The Admissions Forum is asked to note the proposed response from the LEA to the DfES and to consider whether it wishes to provide its own response to this consultation.