



# Briefing note – for schools

## Changes to the School Admissions Code – September 2021

### Introduction

Following consultation in 2020, the Department for Education has published the School Admissions Code 2021: [School admissions code - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/school-admissions-code-2021). The Code is currently subject to parliamentary approval but will be in force from **1 September 2021**.

The outcome of the consultation can be found here: [Changes to the School Admissions Code - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/school-admissions-code-2021)

Cornwall Council and schools will need to prepare for the changes and act in accordance with the new Code from September.

The changes proposed aim to ‘improve support for the in-year admission of vulnerable children and help reduce to a minimum any gaps in their education’.

Significant changes to the Code include:

- expansion of the looked after child criterion in oversubscription criteria to include those adopted from care outside England;
- the introduction of a statutory deadline for responses to in-year applications;
- expansion of the list of eligible children under the Fair Access Protocol – but now limited to these children with no local criteria permitted.

Schools will need to:

- familiarise themselves with the changes and act in accordance with the new Code from 1 September 2021;
- review their admission arrangements that have already been determined for 2021/22 and 2022/23 (academy, foundation, trust and voluntary-aided schools);
- consider their processes which will need to support the new requirements for in-year admissions.

Further details and guidance are provided below.

If you have any questions please contact the School Admissions Team: [schooladmissions@cornwall.gov.uk](mailto:schooladmissions@cornwall.gov.uk)

## The key changes and actions required

NB: where the notes/actions refer to the 'admission authority' – this means:

- Academy schools: the academy trust
- Foundation, trust and voluntary-aided schools: the governing board
- Community and voluntary-controlled schools: Cornwall Council

Who/when	Change to Code	What you need to do
All schools  Before 1 September 2021 and ongoing	All changes	<ul style="list-style-type: none"> <li>• Familiarise yourselves with the new Code: <a href="https://www.gov.uk/school-admissions-code">School admissions code - GOV.UK (www.gov.uk)</a></li> <li>• Take any actions required by the new Code (some guidance on key areas is given in this table)</li> </ul>
Admission authorities  Immediately and before 1 September	<p>The current (2014) Code requires admission authorities to give top priority in the oversubscription criteria to looked after children and previously looked after children. The new Code expands this requirement to include children who were in <b>state care outside of England</b> but who were then adopted.</p> <p>The DfE will provide additional non-statutory guidance to help admission authorities determine eligibility under this status.</p>	<p>Admission authorities need to 'vary' the admission arrangements they have already determined for 2021/22 and 2022/23 if these do not already include this new priority.</p> <p>You do not need to consult on this change because it is to comply with a mandatory requirement of the Code. You need to discuss and agree the change at a minuted meeting, as you do when determining your arrangements each year.</p> <p><b>1. <u>Amend the arrangements to include the new priority.</u></b></p> <p><b>How this will look:</b></p> <p><b>1: Children in care or children that were previously in care but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order including those who appear (to the admission authority) to</b></p>

**have been in state care outside of England and ceased to be in care as a result of being adopted.**

**You may wish to add a footnote stating** ‘subject to Parliamentary approval of the School Admissions Code 2021’.

And then in your definitions...

### **Children in care and children who were previously in care**

A ‘child in care’ is also referred to as a ‘looked after child’ and is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989).

A ‘Child Arrangement Order’ is an order settling the arrangements to be made as to the person with whom the child is to live under Section 8 of the Children Act 1989. Section 14A of the Children Act 1989 defines a ‘Special Guardianship Order’ as an order appointing one or more individuals to be a child’s special guardian (or special guardians).

**A child is regarded as having been in state care outside of England if they were in the care of or were accommodated by a public authority, a religious organisation, or any other provider of care whose sole or main purpose is to benefit society (see Section 23ZZA(8) of the Children Act 1989 (inserted by Section 4 of the Children and Social Work Act 2017)).**

#### **2. Inform your statutory consultees of the change. As a reminder, these are:**

- parents of children between the ages of two and eighteen;
- all other admission authorities within the **relevant area** (see Appendix 1 for

		<p>details);</p> <ul style="list-style-type: none"> <li>• others in the relevant area who you think have an interest in the proposed admissions;</li> <li>• Cornwall Council;</li> <li>• any adjoining neighbouring local authorities where the admission authority is the local authority; and</li> <li>• in the case of faith schools, the Diocese.</li> </ul> <p><b>3. <u>Send a copy of your varied arrangements</u> – 2021/22 and 2022/23 to <a href="mailto:schooladmissions@cornwall.gov.uk">schooladmissions@cornwall.gov.uk</a> as soon as possible</b></p> <p><b>4. <u>Update the arrangements on your website</u></b></p> <p><b>5. <u>Familiarise yourselves with the guidance on assessing application evidence when this is provided by the DfE</u></b></p> <p><b>(NB: when you are reviewing your arrangements, please take the opportunity to check that you have removed all references to Capita One and Datamap (in your distances section, if Cornwall Council does this for you) and Statements of SEN.)</b></p>
<p>Admission authorities</p> <p>Immediately and before 1 September</p>	<p>Clarification in paragraph 1.39 of the current Code on how admission authorities may apply oversubscription criteria prioritising <b>children of staff</b> at the school, and what detail they should include in their admission arrangements.</p> <p>‘Admissions authorities must specify in their admission arrangements how this priority will</p>	<p>Admission authorities that <b>already</b> have children of staff as a criterion need to ‘vary’ the admission arrangements they have already determined for 2021/22 and 2022/23 if these <b>do not already include an explanation of the group/s of staff.</b></p> <p>You do not need to consult on this change because it is to comply with a mandatory requirement of the Code.</p> <p><b>1. <u>Amend the arrangements to include the further detail.</u></b></p> <p>Remember, the criterion ‘children of staff’ can only be in <b>either</b> or <b>both</b> of the following circumstances:</p>

	<p>be applied; for example, which groups of staff it will apply to.'</p>	<p>a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or</p> <p>b) the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.</p> <p>Also, it can only refer to staff of the school in question and not staff from across a MAT, for example.</p> <p><b>You will need to define which groups of staff this will apply to, for example 'teaching staff' or 'teaching and teaching support staff' or 'all staff'.</b></p> <ol style="list-style-type: none"> <li><b>2. <u>Inform your statutory consultees of the change (see previous section above).</u></b></li> <li><b>3. <u>Send a copy of your varied arrangements</u> – 2021/22 and 2022/23 to <a href="mailto:schooladmissions@cornwall.gov.uk">schooladmissions@cornwall.gov.uk</a></b></li> <li><b>4. <u>Update the arrangements on your website.</u></b></li> </ol> <p><b>(NB: when you are reviewing your arrangements, please take the opportunity to check that you have removed all references to Capita One and Datamap (in your distances section, if Cornwall Council does this for you) and Statements of SEN.)</b></p>
<p>All schools Immediately</p>	<p>Admission Authorities should aim to notify parents/carers of the outcome of their in-year application within 10 school days but <b>must</b> issue a decision within 15 school days.</p>	<p>Admission authorities will be required to notify parents/carers of the outcome of their in-year application within the new timescale. The School Admissions Team co-ordinates in-year applications for the majority of schools in Cornwall, therefore you will need to respond to requests for places in a timely way to allow the School Admissions Team to comply with the duty imposed on the admission authority, which might be your school, where we are acting on your behalf.</p>

	Admission Authorities are required to provide information on the availability of school places within two days.	<p>The Code prescribes that admission authorities must respond regarding the availability of places within two days.</p> <p>With this in mind, <b>your school may need to review its processes for responding to requests for places to ensure that the deadlines can be met.</b></p> <p>We will be grateful for your help in meeting this new requirement which will be in the best interests of children and young people.</p>
All schools September	<p>Fair Access Protocols (FAP) must now encompass wider categories of children – unplaced, vulnerable and those who are unable to secure a school place in-year. However those are the only categories of children that can be considered under the FAP.</p> <p>The categories added are:</p> <ul style="list-style-type: none"> <li>• Children in kinship care</li> <li>• Children moving from refuge or safe/relevant accommodation into housing</li> <li>• Previously looked after children</li> <li>• Children who have been subject to a Child in Need Plan or Child Protection Plan in the previous year</li> </ul>	<p>Cornwall Council will undertake a review of the Fair Access Protocol alongside school representatives in the summer term to reflect these changes.</p> <p>The new Fair Access Protocol will be published before the new school year and you will be alerted to this.</p> <p><b>You will need to familiarise yourselves with the new Protocol when this is published.</b></p>
Other changes	Minor policy and technical drafting changes have also been made, mainly to improve clarity.	You can review these in the consultation outcome document: <a href="#">Changes to the School Admissions Code - GOV.UK (www.gov.uk)</a>

## Appendix 1

### What is our 'relevant area'?

The relevant area for consultation is set for all schools by Cornwall Council. The relevant areas to be consulted on for 2022/23 are as follows:

#### Academy, foundation and trust: infant, junior and primary schools

The admission authority (governing board or academy trust) will be required to consult within the following relevant area:

- *A 5 mile radius of the school, or where this covers a neighbouring authority area, to include up to 3 miles into that area.*

Consultees will include:

- Cornwall Council
- all other admission authorities of infant, junior or primary schools within the relevant area
- any other local authority which is the admission authority for a school within the relevant area
- the two nearest primary schools where these are not covered in the 5 mile radius
- the Diocesan authority (voluntary-aided schools only)



**Academy, foundation and trust secondary schools**

The admission authority (governing board or academy trust) will be required to consult within the following relevant area:

- *A 10 mile radius of the school, or where this covers a neighbouring authority area, to include up to 3 miles into that area.*

Consultees will include:

- Cornwall Council
- all other admission authorities of primary and secondary schools within the relevant area
- any primary schools that are not covered within the relevant area but which form part of the designated area used in the secondary school's oversubscription criteria
- any other local authority which is the admission authority for a school within the relevant area
- the two nearest primary and secondary schools where these are not covered in the 10 mile radius

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