

Item No.	Classification: Open	Date: 3 August 2021	Decision maker: Deputy Leader and Cabinet Member for Children, Young People and Education
Report title:		Admissions priority for children adopted from state care outside of England	
Ward(s) or groups affected:		All	
From:		Strategic Director of Children's and Adults' Services	

RECOMMENDATION

1. That the Deputy Leader and Cabinet Member for Children, Young People and Education agree to the variation of the admission arrangements for community primary schools for September 2021 and September 2022. This is in line with the mandatory provision set out in the School Admissions Code 2021 which requires children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted to be given equal first priority in admission arrangements, alongside looked after children (LAC) and children who were previously looked after by English local authorities (PLAC) (set out in Appendix 1 and Appendix 2 of this report).

BACKGROUND INFORMATION

2. A new School Admissions Code (the new Code), which applies to all maintained schools, academies and free schools will come into force on 1 September 2021. Admission authorities will be required to act in accordance with all mandatory provisions contained in the new Code.
3. Admission arrangements must also adhere to the requirements of the School Standards and Framework Act 1998 ("the SSFA 1998"), the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (as amended) ("the Regulations") and the School Admissions (Infant Class Sizes) (England) Regulations 2012.
4. This report is being brought to the Cabinet Member for Children, Young People and Education for agreement due to the tight time scale for varying the determined admission arrangements 2021/22 and 2022/23 so that this new mandatory provision can be implemented from 1 September 2021. A notice of variation to the executive scheme of delegation was agreed by the Leader of the Council on 8 June 2021, enabling this particular decision to be delegated from Cabinet to the Cabinet Member for Children, Young People and Education.
5. The new Code requires children who appear (to the admission authority)

to have been in state care outside of England and ceased to be in state care as a result of being adopted, to be given equal first priority in admission arrangements, alongside looked after children (LAC) and children who were previously looked after by English local authorities (PLAC). This report refers to these children, soon to be covered by the Code as internationally adopted previously looked after children – (IAPLAC).

6. Paragraph 1.7 of the new Code will mandatorily require all admission authorities to give highest priority to *“looked after children and all previously looked after children, including those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted”*.
7. The mandatory provision set out in new the Code will apply to all admission authorities and arrangements will need to be varied by the appropriate decision maker, before September 2021. The Council, as the admission authority for community primary schools within Southwark, must vary its determined admission arrangements 2021/22 (which were determined by 28 February 2020) and determined admission arrangements 2022/23 (which were determined by 28 February 2021). This is to enable IAPLAC to be given equal high priority alongside LAC and PLAC. Unless these variations to previously determined admission arrangements are made, the Council will no longer be in compliance with the new Code from 1 September 2021.
8. Once the admission arrangements 2021/22 and 2022/23 are varied, all appropriate bodies are notified of this and a copy of the admission arrangements are also published on the Council’s website.
9. Full details of the admission arrangements 2022/23, along with those of all other admission authorities in the borough, will be included in the forthcoming Starting Primary booklet for September 2023. Many families will use this booklet as a main source of information when selecting a primary school and will be able to download the booklet from the school admissions web page or view a hard copy upon request.
10. As the variations to the admission arrangements 2021/22 and 2022/23 will be necessary to comply with a mandatory requirement of the new Code, the Department for Education has advised that under these circumstances there is no requirement for the changes to be referred to the office of the schools adjudicator.
11. At this stage we cannot quantify how many families will request for their child to be considered under the IAPLAC priority. Responsibility for determining whether a child is eligible for IAPLAC priority rests with the admission authority and subject to ministerial approval, the Department for Education intends to publish non-statutory guidance on the admission of IAPLAC before the new Code comes into force. The published guidance will aim to assist and support admission authorities in assessing evidence provided by parents who want their child to be considered under the IAPLAC criterion. The guidance will also recommend that admission authorities should request advice from their Virtual School Head (VSH), if they are in any doubt about the acceptability of evidence provided by the parent of an IAPLAC.
12. Any applications received on or after 1 September 2021 will need to be processed in accordance with the new Code – this will apply to all applicants for September 2022 admissions to Reception, Year 7 as well as applications received for placement in year. By way of example, when dealing with in-year applications for the 2021/2022 academic year,

children who are determined as being IAPLAC must be given equal highest priority with LAC and PLAC. Any child who is on a waiting list for a school before 1 September 2021 and meets the definition of an IAPLAC must be ranked again on 1 September 2021 following the new Code coming into force so that the child is given equal highest priority with LAC and PLAC.

KEY ISSUES FOR CONSIDERATION

Policy implications

13. The refresh of the Borough Plan for 2018-22 was approved by the Council Assembly in November 2020 and presents a set of commitments, which will help the Council deliver the vision of “A Fairer Future for All”. It is a requirement that reports to Cabinet now explicitly refer to the Borough Plan and how the report and or the actions outlined will help deliver key aspects of the plan. The mandatory provision in the new Code and the overall school admissions process supports families to secure access to school places in line with theme 6 – *‘A great start in life’*.
14. The mandatory provision set out in new the Code requires the Council, to vary its determined admission arrangements 2021/22 (which were determined by 28 February 2020) and determined admission arrangements 2022/23 (which were determined by 28 February 2021). This is to enable IAPLAC to be given equal high priority alongside LAC and PLAC. Unless these variations to previously determined admission arrangements are made, the Council will no longer be in compliance with the new Code from 1 September 2021.

Community impact statement

15. The 2021/22 and 2022/23 Arrangements, together with the Council’s participation in the coordinated admissions scheme for primary admissions is designed to produce fair and equitable access to school places for all children. Allocation of places is delivered through strict application of admissions and oversubscription criteria of each school in Southwark through a central (pan-London) computerised system.
16. The Public Sector Equality Duty, at section 149 of the Equality Act, requires public bodies to consider all individuals when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard when carrying out their activities to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. The Council’s Approach to Equality (“the approach”) commits the Council to ensuring that equality is an integral part of our day to day business.
17. “Protected characteristics” are the grounds upon which discrimination is unlawful - the characteristics are: age, disability, gender reassignment,

marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation. In this case, the characteristics covering gender reassignment, marriage and civil partnership, pregnancy and maternity, and sexual orientation are unlikely to be issues for consideration. Managing the capacity of primary provision to meet demand have the potential to advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. An Equality Impact assessment (EQIA) relating to the impact of school admission arrangements was carried out earlier this year which has since been updated to take account of the new mandatory provision. No negative impacts of the new arrangements have been identified, so no mitigating actions are required, and no equality objectives will derive from these specific proposals.

18. We have had due regard in preparing the arrangements and will have due regard when carrying out the proposed activities, for the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. Provision of new school places and fair and equitable admissions policies:

- a) *“advances the cause of the elimination of discrimination” by removing potential discrimination based on the protected characteristics*
- b) *“advances equality of opportunity” by ensuring that all groups, irrespective of background, have equal access to school places*
- c) *“fosters good relations” by implementing a demonstrably fair and equitable policy for school admissions across the borough for people with protected characteristics and those without.*

Resource implications

19. None

Legal implications

20. Please see concurrent from the Director of Law and Governance.

Financial implications

21. The changes set out in this report do not have any material impact on the finances of the Council or result in any additional cost regarding either the Dedicated Schools Grant (DSG) or the General Fund of the Council.

Consultation

22. N/A

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

23. The Cabinet Member is enabled to agree the recommendation by virtue of the variation to the executive scheme of delegation by the Leader of the Council dated 8 June 2021.
24. The Cabinet Member is advised that school admission arrangements are governed by the SSFA 1998, together with the Regulations and Code, as stated within the body of the report. The Cabinet Member is advised that the proposed Arrangements for 2021 and 2022 comply with the applicable law.
25. The changes referred to in this report are set out in the School Admissions Code 2021 and the Council is required by the new Code to update its admission arrangements to take account of these.
26. The Cabinet Member is reminded of the public sector equality duty under section 149 Equality Act 2010 when making this decision. This requires that, due regard be given to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. In particular the Cabinet Member will note the adjustments in place to enable full access to support and information for all communities in Southwark, outlined in the Community Impact Statement. That Statement also makes clear that whilst an equality impact assessment has been carried out in relation to the proposed changes, no negative impacts on people with a particular protected characteristic have been identified.

Strategic Director of Finance and Governance - CAS21/006

27. This report seeks approval from the Cabinet Member for Children, Young People and Education to the variation of the Admission Arrangements for Southwark Community Primary Schools for September 2021 and 2022. The Strategic Director of Finance and Governance notes that there is no direct financial implication on the Council's revenue budgets or the DSG.

Other officers

28. N/A

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The School Standards and Framework Act 1998	Legislation Services Team at The National Archives, Kew, Richmond Surrey TW9 4DU	Glenn Garcia 020 7525 2717
Link: http://www.legislation.gov.uk/ukpga/1998/31/contents		
School Admissions Code 2021 (subject to parliamentary approval)	Department for Education	Glenn Garcia 020 7525 2717
Link: School admissions code - GOV.UK (www.gov.uk)		
The School Admissions (Admission Arrangements and Coordination of Admission Arrangements) (England) Regulations 2012	Legislation Services Team at The National Archives, Kew, Richmond Surrey TW9 4DU	Glenn Garcia 020 7525 2717
Link: http://www.legislation.gov.uk/ukpga/1998/31/contents		

APPENDICES

No.	Title
Appendix 1	Southwark Community Primary Schools Admission Arrangements - September 2021
Appendix 2	Southwark Community Primary Schools Admission Arrangements - September 2022

AUDIT TRAIL

Lead Officer	David Quirke-Thornton, Strategic Director of Children's and Adults' Services	
Report Author	Glenn Garcia, Assistant Director, Education Access and Statutory Services, Children's and Adults' Services	
Version	Final	
Dated	29 July 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		29 July 2021