

Government consultation on changes to the school admissions code

Response of the Association of School and College Leaders

Introduction

1. The Association of School and College Leaders (ASCL) represents over 20,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase. This places the Association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types. ASCL welcomes the opportunity to contribute to this consultation.

Section 1

Question 1.1: Do you think the requirement for local authorities and admission authorities to publish information on in-year admissions online by a certain date will be helpful for parents?

2. Yes. ASCL believes specific guidelines around in-year admissions for children identified as vulnerable are needed, and welcomes this addition to the Admissions Code. There is significant opportunity to strengthen inclusivity by improving the process of in-year admission where complex contextual decision-making is involved.

Question 1.2: Do you agree the requirement for admission authorities to provide information on the availability of school places is helpful?

3. Yes. ASCL agrees with the expectation that admission authorities publish by 31 August a description of how they will operate in-year admissions. This will provide transparency for all stakeholders.

Question 1.3: Do you agree the timescales for admission authorities to provide information on the availability of school places are reasonable?

4. Yes. ASCL agrees with the specification of tighter time scales for admission authorities to communicate availability of school places. This will support vulnerable young people to access and re-engage with their education quickly.

Question 1.4: Do you agree with the requirement for local authorities and admission authorities to publish information on in-year admissions online by a certain date?

5. Yes. ASCL recognises the importance of clear and timely communication with parents and young people about placement availability for in-year admissions.

Question 1.5: Do you agree the requirement to notify parents of the outcome of their in-year application in writing within 10 school days is useful?

6. Yes. ASCL believes that all young people, and particularly those who are vulnerable, should be out of school for the minimum amount of time possible. These timescales do, however, place a significant burden on schools when they are receiving multiple in-year requests for places. Workload and retention issues should be recognised and efforts made to alleviate pressure on schools through good partnership working.

Question 1.7: Please provide any further feedback or comments you wish to make on the outlined proposals around in-year admissions.

7. We would ask the government to consider the on-going cost and time challenges that this process poses for schools which act as the admission authority. For schools that are full, with no pupil places available, the process is quick to action. Where schools are undersubscribed, constant demands to review multiple in-year applications and to induct new pupils come with additional time and staffing costs. Where schools experience a high demand for places from families who wish to place pupils who have an EHCP, the process draws on in-school expertise of SENCOs to review the application.

Section 2

Question 2.1: Do you agree with the proposals to prescribe how Fair Access Protocols are triggered?

8. Yes. ASCL welcomes the proposal to improve the efficacy of Fair Access Protocols and to ensure they are used appropriately.
9. ASCL also supports the principle, expressed clearly in this consultation, to improve provision for vulnerable young people and reduce the time they spend out of education. ASCL believes the admissions process should foster collaboration locally to respond rapidly and be responsive to individual pupil needs.

Question 2.2: Do you agree with the proposed changes to the list of children eligible for the Fair Access Protocol?

10. Yes. ASCL welcomes the proposed addition of the Children in Need / Child Protection Plan, children in refuge and those in safe accommodation as eligible for the Fair Access Protocol. We are particularly pleased to see reference to 'exceptional circumstances'. This will allow school and LA partners to look more closely at the specific and contextual challenges of complex cases. Default categories and labels do not always cover the complex contextual challenges that some children face in re-engaging with an appropriate school placement.
11. The proposal for children who have been out of education for four weeks or more also supports the agility of the system to provide a positive safety net, and prevent gaps in education where families are experiencing difficulty securing a school place.

12. These additions have the potential to make a significant difference to the lives of vulnerable young people. We welcome the emphasis on no school being asked to take a disproportionate number of children via the FAP.

Question 2.3: For Fair Access Protocols to be effective, it is important that all admission authorities participate in the process properly. We have indicated what we mean by participation. Do you consider our definition of participation to be useful?

13. ASCL supports the view that all schools should collaborate in support of vulnerable young people staying in school and accessing education. We agree that the Fair Access Protocol should be agreed by a majority of schools in the area.
14. We also support the expectation that, once agreed, all schools must adopt and engage in the use of this protocol: making available a representative who is authorised to participate in discussions; make decisions on placing children via the Protocol; admitting pupils when asked to do so in accordance with the Protocol, even when the school is full.
15. We would, however, encourage the government to consider a means to recognise the additional cost in deploying this responsibility to an experienced member of school staff.

Question 2.4 Currently admission authorities are able to refuse admission on the basis of challenging behaviour. However, we are aware that the current provision in the Code relating to this can sometimes be misused. We have attempted to clarify how and when admission authorities may rely on this provision. Do you consider our clarification to be helpful?

16. Not sure. ASCL agrees that any attempt to clarify a complex process that is prone to misuse is helpful. However, we do not agree with the proposed definition of challenging behaviour (see below), and would ask that this be reviewed as part of the consultation process.

Question 2.5: Do you agree with our proposed approach to the definition of challenging behaviour?

17. Strongly disagree. ASCL believes the definition would benefit from careful rewording. We recommend that, rather than referring to the 'range of behaviour schools can tolerate', this should be rephrased as the 'range of behaviour schools can *reasonably manage*'. We would also suggest a change to the final sentence of this definition, to read 'and is unlikely to be responsive to an *additional range* of interventions to address pupil misbehaviour'.
18. The positive intention of this *additional* stipulation to in-year admissions is to protect vulnerable and complex young people who require additional support in order to engage effectively and successfully at school. There must be a clear expectation for schools to do **more** to support pupils with additional needs. Currently, this definition suggests that a highly vulnerable child who has experienced trauma has not responded to typical school interventions. Clearly a school should instigate additional and persistent support before being able to confirm challenging behaviour.

Question 2.6: The purpose of Fair Access Protocols is to ensure children are placed in school as soon as possible. As such, we propose to require children referred to the Fair Access Protocol to be placed in school within 20 school days. Do you agree that this proposal and timescale is helpful?

19. Yes. ASCL agrees that ensuring pupils are allocated to school in a timely fashion should be a priority, and 20 school days should be the maximum time allowed.

Question 2.7: Please provide any further comments you wish to make on the outlined proposals around Fair Access Protocols.

20. ASCL is concerned about the challenges faced by young people going into Key Stage 4, and particular those transitioning during Year 11. When a child or young person is placed in Alternative Provision, there is funding available for the assessments and intervention planning to achieve successful re-engagement. Mainstream schools must be able to offer appropriate support to cover the cost of specialist and personalised provision for re-engagement at KS4. The cost of assessing pupil need and the resource to support re-engagement planning is considerable.
21. We would encourage the government to consider ways to ensure this support is available whatever setting pupils are admitted to.

Section 3

Question 3.1: Children who were previously in state care outside of England will, for the purposes of admission to school, be treated on an equal footing to those children looked after and previously looked after by a local authority in England. Do you envisage any problems with this change?

22. Yes. ASCL agrees that children who have been in state care outside England should be recognised as vulnerable and a priority of admission. We understand that evidence of status may be slow to elicit. However, where there is a belief that a child has been in state care, they should be prioritised for admission into education and this process should not be delayed whilst proof is sought.

Question 3.2: We understand that there are concerns about how an admission authority might determine whether a child was previously in state care outside of England, prior to their adoption. We intend to publish non-statutory guidance to help admission authorities implement the changes, including further advice on how to determine eligibility. What else would you like to see in this non-statutory guidance?

23. It would be useful to recommend minimum time frames around eliciting evidence. A delay in securing evidence should not be used as a reason to not to admit further pupils to the school.

Section 4

Question 4.1: Please provide any comments you have on the proposal to enable admission authorities to use a private address or a Unit or quartering area address as the child's home address to allocate a place in advance of a service family or family of a crown servant moving into the area.

24. ASCL supports the recommendations to facilitate rapid in-year admission to pupils who are subject to frequent and short notice moves. We welcome the recommendations to process admissions rapidly and in advance of the family arriving in the area. This will allow families to secure a school place quickly following a move or posting.

Question 4.2: Do you have any concerns around admission authorities being required to accept evidence of proof of address which is available in advance of a service or crown servant family moving into the area?

25. No.

Section 5

Question 5.1: The purpose of the minor policy and technical drafting changes, as set out in Annex A, is mainly to improve clarity, with a few amendments to policy. Please provide any comments you have on the proposed minor policy and technical drafting changes.

26. ASCL recognises these amendments to policy and technical drafting to improve clarity and remove ambiguity within the existing framework.

Section 6

Question 6.1: Do you agree that the proposed Code changes will not have a negative impact on any children with one or more protected characteristics?

27. We believe the proposed Code changes have the potential to significantly strengthen inclusivity and reduce gaps in education for vulnerable pupils.

28. We welcome the recognition of complexity and context afforded by the introduction of the 'exceptional' category in eligibility criteria for the FAP.

29. ASCL would welcome a redefinition of 'challenging behaviour' (see our answer to Question 2.5 above).

Question 6.2: Do you believe the proposed Code will result in any new costs for local authorities?

30. Looked after pupils move schools frequently and rarely arrive in a borough with current assessments. There should be some consideration that these pupils could benefit from resources from the Virtual School for Looked after Children.

Question 6.3: Do you believe the proposed Code will result in any savings for local authorities?

31. No, not that we are aware of.

Conclusion

32. ASCL welcomes the principles underpinning the proposed amendments to the in-year admissions regulations.

33. I hope this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

Margaret Mulholland
SEND & Inclusion Specialist
Association of School & College Leaders
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