

Education Consultative Forum

AGENDA

DATE: Monday 27 June 2011

TIME: 7.30 pm

VENUE: Committee Rooms 1 & 2,
Harrow Civic Centre

PRE-MEETINGS: HTCC - 6.45 pm - CR 3, Governors - 6.45 pm – CR6,
Members - 7.00 pm - CR 1/2

MEMBERSHIP (Quorum 3 representatives of each side)

Chairman: Councillor Brian Gate

Councillors:

Zarina Khalid
Raj Ray
Krishna Suresh

Husain Akhtar
Mrs Camilla Bath
Janet Mote

Reserve Members:

- | | |
|---------------------------|----------------------|
| 1. Ben Wealthy | 1. Christine Bednell |
| 2. Kairul Kareema Marikar | 2. Ramji Chauhan |
| 3. Nizam Ismail | 3. Lynda Seymour |
| 4. Krishna James | |

(Education Side Representatives overleaf)

Education Side Representatives:

Teachers' Constituency: (nominated by Harrow Teachers' Consultative Committee)

Ms A Drew
Ms C Gembala

Ms J Lang
Ms L Money

Ms L Rowlands
Ms L Snowden (VC)

Governors' Constituency: (nominated by Association of Harrow Governing Bodies)

Mrs C Millard
Mr N Ransley

Mr K Sochall
Ms H Solanki

(Vacancy)
(Vacancy)

Elected Parent Governors:

1. (Vacancy)
2. (Vacancy)

Denominational Representatives:

1. Mrs J Rammelt
2. Reverend P Reece

Contact: Mark Doherty, Acting Democratic Services Officer
Tel: 020 8416 8050 E-mail: mark.doherty@harrow.gov.uk

AGENDA - PART I

1. ATTENDANCE BY RESERVE MEMBERS

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

2. APOLOGIES FOR ABSENCE

To receive apologies for absence (if any).

3. DECLARATIONS OF INTEREST

To receive declarations of personal or prejudicial interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Committee, Sub Committee, Panel or Forum;
- (b) all other Members present in any part of the room or chamber.

4. APPOINTMENT OF VICE-CHAIRMAN

To appoint a Vice-Chairman of the Education Consultative Forum for the Municipal Year 2011/2012.

5. MINUTES (Pages 1 - 14)

That the minutes of the special meeting held on 1 March 2011 and the ordinary meeting held on 6 April 2011 be taken as read and signed as a correct record.

6. MATTERS ARISING

To consider any matters arising from the last meeting.

7. PUBLIC QUESTIONS

To receive questions (if any) from local residents or organisations under the provisions of Executive Procedure Rule 51 (Part 4D of the Constitution).

8. PETITIONS

To receive petitions (if any) submitted by members of the public/Councillors under the provisions of Executive Procedure Rule 49 (Part 4D of the Constitution).

9. DEPUTATIONS

To receive deputations (if any) under the provisions of Executive Procedure Rule 50 (Part 4D of the Constitution).

10. INFORMATION REPORT - LOCAL AUTHORITY'S STRATEGIC ROLE FOR EDUCATION IN HARROW (Pages 15 - 24)

Report of the Corporate Director, Children's Services.

11. SCHOOL EXPANSION PROGRAMME (Pages 25 - 32)

Report of the Head of Achievement and Inclusion Service.

12. INFORMATION REPORT - UPDATE ON THE POTENTIAL CONVERSION OF SEVEN HIGH SCHOOLS TO ACADEMY STATUS (Pages 33 - 40)

Report of the Corporate Director, Children's Services.

13. INFORMATION REPORT - SEN AND DISABILITY GREEN PAPER (Pages 41 - 44)

Report of the Corporate Director, Children's Services.

14. INFORMATION REPORT - CAPITAL UPDATE (Pages 45 - 48)

Report of the Interim School Capital Programme Team Manager.

15. INFORMATION REPORT - DEPARTMENT FOR EDUCATION CONSULTATION ON SCHOOL FUNDING REFORM (Pages 49 - 58)

Report of the Corporate Director, Children's Services.

16. CONSULTATION ON THE CHANGES TO THE ADMISSIONS FRAMEWORK (Pages 59 - 124)

Report of the Head of Achievement and Inclusion Service.

17. DATE OF NEXT MEETING

To note that the next meeting of the Forum is due to be held on 7 November 2011.

AGENDA - PART II - NIL

EDUCATION CONSULTATIVE FORUM (SPECIAL) MINUTES

1 MARCH 2011

Chairman:	* Councillor Brian Gate	
Councillors:	* Husain Akhtar * Mrs Camilla Bath * Nizam Ismail	* Janet Mote * Krishna Suresh * Ben Wealthy (1)
Councillors in attendance:	* Nana Asante * Ramji Chauhan * Ajay Maru	* Bill Stephenson
Teachers' Constituency:	† Ms A Drew * Ms C Gembala Ms J Lang	† Ms L Money * Ms L Rowlands * Ms L Snowdon
Governors' Constituency:	* Mrs C Millard * Mr N Ransley	Mr K Sochall Ms H Solanki
Elected Parent Governor Representatives:	(Vacancy)	(Vacancy)
Denominational Representatives:	† Mrs J Rammelt	* Reverend P Reece

- * Denotes Member present
- (1) Denotes category of Reserve Member
- † Denotes apologies received

22. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Member:-

Ordinary Member

Reserve Member

Councillor Raj Ray

Councillor Ben Wealthy

23. Apologies for Absence

RESOLVED: To note that apologies were received from Mrs Annie Drew and Mrs Julia Rammelt.

24. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 5 - Information Report: Academy Schools

Councillor Husain Akhtar declared a personal interest in that he was Governor of Grange First and Middle Schools. He would remain in the room during the discussion and decision making on this item.

Councillor Nana Asante declared a personal interest in that she was a Governor of Stanburn First and Middle School. She would remain in the room during the discussion and decision making on this item.

Councillor Mrs Camilla Bath declared a personal interest in that she was a Governor of Whitchurch Middle and Harrow High schools. She would remain in the room during the discussion and decision making on this item.

Councillor Ramji Chauhan declared a personal interest in that he was a Governor of Glebe School. He would remain in the room during the discussion and decision making on this item.

Councillor Brian Gate declared a personal interest in that he was Governor of St. John's Church of England Primary School, an Appointee of St. Dominic's College and Portfolio Holder for Schools and Colleges. He would remain in the room during the discussion and decision making on this item.

Councillor Nizam Ismail declared a personal interest in that he was Governor of Stag Lane Middle School. He would remain in the room during the discussion and decision making on this item.

Councillor Janet Mote declared a personal interest in that she was Governor of St John Fisher Primary School and Member and representative of the Association of Teachers and Lecturers. She would remain in remain in the room during the discussion and decision making on this item.

Mrs C Millard, representing the Governors' Constituency, declared a personal interest in that she was Governor of Grange First and Middle, Cannon Lane Middle and Nower Hill High Schools. She would remain in the room during the discussion and decision making on this item.

Mr N Ransley, representing the Governors' Constituency, declared a personal interest in that he was Governor of St Dominic's (RC) Sixth Form College and St John Fisher Catholic Primary school. He would remain in the room during the discussion and decision making on this item.

Reverend Paul Reece declared a personal interest in that he was Local Authority Governor for Krishna Avanti School and Sponsor Governor of Camrose Primary School. He would remain in the room during the discussion and decision making on this item.

Mrs Lynne Rowlands, representing the Teachers' Constituency, declared a personal interest in that she was Governor and Headteacher of Canons High School. She would remain in the room during the discussion and decision making on this item.

Councillor Krishna Suresh declared a personal interest in that he was a Governor of Vaughan First and Vaughan Middle schools. He would remain in the room during the discussion and decision making on this item.

25. Deputations

RESOLVED: To note that no deputations were received.

RECOMMENDED ITEM

26. Information Report: Academy Schools

An officer introduced a report which outlined the Council's proposed position on the potential conversion of seven high schools to academy status. The officer tables a revised recommendation to the report.

Officers advised that:

- the seven High Schools deciding whether to seek academy status in the borough were Bentley Wood, Canons, Harrow High, Hatch End, Nower Hill, Park High and Rooks Heath;
- three of the seven schools had reached stage one of the process of achieving academy status. The remaining four schools would be holding meetings over the forthcoming weeks to discuss whether to proceed to stage one, and begin statutory consultation;
- the seven schools would be writing to MP's, Councillors, Headteachers of primary schools and parents with children attending primary schools in order to consult as widely as possible;
- in 2011/12, the Department for Education (DfE) reduced the formula grant by £614,000 to finance the cost of the schools in the borough adopting academy status. It was anticipated that further funding of £484,000 would be clawed back by the DfE in 2012/13;
- a review by the DfE was underway in relation to capital funding of academies;

- schools that converted to academy status before 1 September 2011 would receive protection which would limit the reduction of their top up funding to 10%.

The Chairman and Portfolio Holder for Schools and Colleges reiterated that the Council would prefer the seven schools to remain in Local Authority Control. However, the Council would support these schools regardless of the outcome regarding academy status.

Members of the Forum expressed the view that the proposed level of consultation needed to increase in order to enable parents within the borough to be fully informed of the potential impact of these schools adopting academy status.

Members also agreed that maintaining the proud educational history of the borough was of paramount importance whilst considering and supporting the schools that had expressed an interest in transferring to academy status.

In response to questions, officers and Members advised that:

- it was the Council's intention to propose that the consultation process was fair, thorough and transparent. Public meetings would be held on 21 March at the seven schools;
- the Leader of the Council and Portfolio Holder for Schools and Colleges would be meeting with the seven schools to ensure that appropriate means of consultation were being fully utilised;
- special schools were not permitted to apply for academy status at this time;
- it was anticipated that the schools would continue with the majority of SLAs that were currently in place. There would be a period of approximately eight months to ascertain what the exact needs were;
- no more than 50% of those on the Governing body for academy schools could be staff members;
- each academy school would be responsible for facilitating its own admissions arrangements. There was a possibility of academy schools procuring this service from the Council in future years;
- the intention of academy schools was to maintain current class sizes. This would be subject to change in future years;
- the progress of a simplified and less descriptive admissions code, as outlined in the Government White Paper and Bill, would be monitored;
- the legal and planning departments were working to address potential issues surrounding the land and property aspects of the schools transition to academy status. For community schools, guidance suggested that the conversion process required the land to be

transferred to the Academy Trust. This would usually be by way of a 125 year lease to the Academy Trust, with the Council retaining its freehold interest in the land. The Academy Trust would be responsible for maintaining the upkeep of the building throughout the duration of the lease;

- academies were not bound by the National Curriculum. It was anticipated that academies would have particular freedom in choosing aspects of the curriculum at Key Stage Level 3;
- academy schools would receive their current budget plus the additional funding provided by the DfE;
- the strong relationships between schools within the borough would be maintained regardless of their individual status.

Resolved to RECOMMEND: (to Cabinet)

That the implications, for the Authority, of the potential conversion of seven of Harrow's High Schools to academies be noted, and the Forums comments on the proposed conversion be forwarded to Cabinet for consideration.

Reason (for Recommendation): To prepare for the significant changes that academy conversion will entail and to ensure that all of Harrow's schools continue to provide high quality education to local young people.

27. Date of Next Meeting

RESOLVED: To note that the next meeting of the Forum was due to take place on 5 April 2011.

28. Amendment to Membership

RESOLVED: That in accordance with Council Procedure Rule 1.5 and following notification from the Labour Group Leader:

- (1) Councillor Zarina Khalid be appointed as a full Member of the Forum, replacing Councillor Nizam Ismail;
- (2) Councillor Nizam Ismail be appointed as a Reserve Member of the Forum replacing Councillor Zarina Khalid.

(Note: The meeting, having commenced at 7.35 pm, closed at 9.00 pm).

(Signed) COUNCILLOR BRIAN GATE
Chairman

This page is intentionally left blank

EDUCATION CONSULTATIVE FORUM

MINUTES

6 APRIL 2011

Chairman:	* Councillor Brian Gate	
Councillors:	* Husain Akhtar * Ramji Chauhan (2) * Zarina Khalid	* Janet Mote * Raj Ray * Krishna Suresh
Teachers' Constituency:	* Ms A Drew Ms C Gembala Ms J Lang	* Ms L Money Ms L Rowlands * Ms L Snowdon
Governors' Constituency:	* Mrs C Millard Mr N Ransley	† Mr K Sochall Ms H Solanki
Elected Parent Governor Representatives:	(Vacancy)	(Vacancy)
Denominational Representatives:	* Mrs J Rammelt	Reverend P Reece

- * Denotes Member present
- (2) Denotes category of Reserve Member
- † Denotes apologies received

29. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Member:-

Ordinary Member

Councillor Camilla Bath

Reserve Member

Councillor Ramji Chauhan

30. Apologies for Absence

RESOLVED: Apologies for absence had been received from Mr K Sochall

31. Declarations of Interest

RESOLVED: That the following interests were declared:

Agenda Item: 8. Local Authority's Strategic Role for Education in Harrow; 9. Information Report - Harrow School in Partnership (HSIP) Update; 10. School Term Dates 2012/13; 11. School Place Planning Strategy 2010/2013 Update; 12. Update on Potential Conversion to of 7 High Schools to Academy Status; 13 Information Report - Revenue Budget 2011/12 to 2015/16; 14. Information Report - 2011/12 Schools Capital Programme.

Councillor Ramji Chauhan declared personal interests in the above items in that he was Governor of Glebe First and Middle School and Hatch End High School. He would remain in the room whilst the items were discussed and voted on.

12. Update on Potential Conversion to of 7 High Schools to Academy Status; 14. Information Report - 2011/12 Schools Capital Programme.

Councillor Janet Mote declared a personal interest in the above items in that her sister-in-law was a teacher at Marlborough Primary School and Nursery. She would remain in the room whilst the items were discussed and voted on.

32. Minutes

RESOLVED: That the minutes of the meeting held on 10 November 2010, be taken as read and signed as a correct record subject to the following amendments:

Minute 11. Declarations of Interest:

That Councillor Akhtar declared a personal interest in that he was a Governor of Elmgrove School be removed.

Councillor Jane Mote be amended to read Councillor Janet Mote.

33. Public Questions, Petitions and Deputations

RESOLVED: To note that no public questions were put, or petitions or deputations received at this meeting.

RECOMMENDED ITEMS

34. School Term Dates 2012/13

The Forum received a report of the Head of Service, Achievement & Inclusion, which set out proposed School Term Dates for the academic year 2012/13.

Resolved to RECOMMEND: (to the Portfolio Holder for Schools and Colleges)

That the Local Government Association (LGA) Model of the School Term Dates for 2012/13 be agreed.

Reason for Recommendation: In order to statutory requirements to determine School Term Dates for 2012/13.

RESOLVED ITEMS

35. Local Authority's Strategic Role for Education in Harrow

An officer introduced a report which outlined changes to schools and the Council arising from the Education Bill.

The officer advised that it was intended for the views of the Forum to form part of a report to Cabinet later in the year, to suggest efficient and effective ways for the Forum to engage on future education matters.

Members of the Forum felt that given the substantial changes occurring within education nationally, it was difficult to identify the exact role of the Forum at this stage. Further consideration was needed, and options should be kept open.

A possible way forward would be for an informal group of EdCF representatives to consider the remit and options, including representation, of a forum focussed on education matters. It was also noted that there were current vacancies for Parent representatives on the Forum, whose involvement in such discussions was key.

It was suggested that the report to Cabinet should outline the changes to the Council and schools arising from the Schools White Paper and the Education Bill and the implications of the legislation, if enacted.

RESOLVED: That the report be noted.

36. School Place Planning Strategy 2010/2013 Update

An officer introduced a report which provided the Forum with an update on the implementation of the School Place Planning Strategy for 2010 - 2013. He advised that:

- following a request to all Primary Headteachers in March 2011, eight bulge classes had been agreed in time for the pan-London submission deadline of 14 March 2011;
- offers for school places had been made for 100% of residents who had applied for a school place on time;
- there was a need to formulate a long-term plan that included some permanent expansion of school places to eradicate the need to arrange bulge classes on an ad-hoc basis.

In response to questions, officers advised that:

- by September 2011, all high school places in the borough were expected to have largely filled;
- schools agreed a formula on how best to fund bulge classes when choosing to adopt them;
- per pupil funding applied to bulge classes.

RESOLVED: That the report be noted.

37. INFORMATION REPORT - Harrow Schools' Improvement Partnership (HSIP) Update

An officer introduced a report which set out the developments towards establishing the Harrow Schools' Improvement Partnership (HSIP). He advised that:

- HSIP on 6 April. Headteacher representatives were keen on establishing a framework for schools to access high quality support;
- further information would be provided to schools in the summer term;
- the possibility for staff to work on the partnership was being considered.

In response to questions, officers advised that:

- the model was driven and funded by schools. It was anticipated that the fee for HSIP Members would be approximately £5,000, although this had not been confirmed;
- teacher training was implicit throughout the entire programme, and would draw on National Programmes such as the Certificate of Excellence;
- the possibility of High School Academies becoming part of HSIP would be considered;

- the Programme was driven by headteachers to seek ways of improving the school. It would also provide good opportunities of obtaining funding;
- the Programme could provide for good marketing opportunities, but was dependant on its success;
- the focus was on teaching and curriculum, after school activities were not a priority at this stage.

RESOLVED: That the report be noted.

38. Update Report On Potential Conversion of 7 High Schools to Academy Status

An officer introduced a report which provided an update on the potential transfer of seven Harrow High Schools to Academy status. He advised that:

- the consultation period for the seven schools concluded on 4 April 2011;
- the Governing Bodies of the schools were due to meet between 4 and 26 May 2011 to decide whether or not to transfer;
- project teams were in place to ensure that should the decision to transfer to Academy status be taken, the Council was adequately prepared support the necessary procedures;
- should the decision to transfer be taken, significant work on transferring the terms of conditions of approximately 1,400 staff would need to take place.

In response to questions, officers advised that:

- there were no available attendance figures from the consultation events as these were processed by the relevant school and not the Authority;
- the consultation letters were designed to provide a broad and transparent view on the impact that transferring to academy status would have. Any issues with the correspondence would need to be addressed with the Governing body of the relevant school.

The Chairman thanked officers, teachers and Governors for stimulating and engaging in a wide consultation process. He added that he would revisit the Frequently Asked Questions section on the Council's website to ensure the accuracy of its content.

RESOLVED: That the report be noted.

39. INFORMATION REPORT - Revenue Budget 2011/12 to 2015/16

An officer introduced a report which provided a summary of the Council's budget for 2011/12 to 2015/16. She advised that:

- the budget included efficiency savings of £2.5 million from Children's Services;
- the per pupil Dedicated Schools Grant (DSG) for 2011/12 was confirmed at £4,862;
- due to an increase of pupils with English as an additional language, the Authority qualified for an Exceptional Circumstances Grant of £1.533 million;
- funding beyond 2012 had not yet been provided by the Department for Education (DfE). It was anticipated that more information would be provided in the Autumn term.

In response to questions, officers advised that:

- the Pupil Premium had been confirmed at £430 per eligible pupil for 2011/12. The Pupil Premium was being looked into to allow London weighting;
- the ramifications for primary schools of High schools transferring to academy status were being looked into;
- all schools were eligible for free school meals;
- Autistic Spectrum Disorder (ASD) now formed part of the schools budget, and no longer fell into the schools specific contingency.

RESOLVED: That the report be noted.

40. INFORMATION REPORT - 2011/12 Schools Capital Programme

An officer introduced a report which provided the Forum with details of the Department for Education's Capital Grant allocation.

In response to questions, officers advised that:

- a permanent level of expansion would become necessary to meet the demand for future primary school places;
- Asset Management work would be conducted to identify the priorities in which to address the maintenance of schools;
- schools adopting the Private Finance Initiative (PFI) would not be funded by the Capital Grant allocation.

RESOLVED: That the Capital Grant allocation for 2011/12 be noted.

41. Date of Next Meeting

RESOLVED: That the Forum was next due to meet on 27 June 2011.

(Note: The meeting, having commenced at 7.35 pm, closed at 9.18 pm).

(Signed) COUNCILLOR BRIAN GATE
Chairman

This page is intentionally left blank

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting:	27 June 2011
Subject:	INFORMATION REPORT - Local Authority Strategic Role for Education in Harrow
Responsible Officer:	Catherine Doran, Corporate Director Children's Services
Exempt:	No
Enclosures:	Annexe A - Summary of the DfE Schools White Paper and Education Bill Implications

Section 1 – Summary

This report provides the Education Consultative Forum with an update about the future strategic role of the Council for education in Harrow.

FOR INFORMATION

Section 2 – Report

1. At its meeting on 6 April 2011, the Education Consultative Forum received a report about some of the changes to schools and the Council arising from the Education Bill 2011 and invited members to comment on the future role of the Education Consultative Forum.

2. The views of the Forum were invited to form part of a report to Cabinet later in the year, to suggest efficient and effective ways for the Forum to engage on future education matters. The Education Forum noted the report and made the following comments.
3. Members of the Forum felt that given the substantial changes occurring within education nationally, it was difficult to identify the exact role of the Forum at this stage. Further consideration was needed, and options should be kept open.
4. A possible way forward would be for an informal group of EdCF representatives to consider the remit and options, including representation, of a forum focussed on education matters. It was also noted that there were current vacancies for Parent representatives on the Forum, whose involvement in such discussions was key.
5. It was suggested that the report to Cabinet should outline the changes to the Council and schools arising from the Schools White Paper and the Education Bill and the implications of the legislation, if enacted.

Section 3 – Further Information

6. A report was presented to Cabinet at its meeting on 19 May 2011, which included an update from the Education Consultative Forum. Cabinet agreed in principle to the consultation mechanisms being reviewed and revised and recommendations being brought back to a future meeting of Cabinet. Cabinet requested a further report be received in the Autumn to confirm the progress in the following areas:
 - Decision Making and Consultation Forum
 - Strategic Role for Schools
 - Support services for Schools.
7. Attached at Annexe A is a summary of the DfE Schools White Paper and Education Bill Implications. The Annexe summarises the future role of the Local Authority by key areas. High level details are then provided on the emerging Government policy, the local position in Harrow and an up-date for June 2011. This is a dynamic document and may form part of an action plan when the Education Strategy and School Organisation services in the Children's Services new operating model become operational in September.
8. Work will be progressed by officers in the coming months to review the consultation mechanisms.

Section 4 – Financial Implications

9. There are no immediate financial implications arising from this report as the review will be undertaken from within existing resources. If the review

proposes changes to services these would be subject to further consideration and approval, with any financial implications highlighted and incorporated into the Council's Medium Term Financial Strategy.

Section 5 – Corporate Priorities

10. These considerations will support the Council's Corporate Priorities for 2011-2012:

- United and involved communities: a Council that listens and leads
- Supporting and protecting people who are most in need

Name:	Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	14 June 2011		

Section 6 - Contact Details and Background Papers

Contact: Johanna Morgan, Head of School Organisation Strategy, Children's Services, 020 8736 6841

Background Papers:

Report to Cabinet on 19 May 2011 - Local Authority's Strategic Role for Education in Harrow

<http://www2.harrow.gov.uk/ieListDocuments.aspx?CId=249&MId=60264>

The Importance of Teaching: The Schools White Paper 2010

<http://www.education.gov.uk/b0068570/the-importance-of-teaching/>

The Education Bill 2011

<http://www.education.gov.uk/aboutdfe/departmentalinformation/educationbill/a0073748/education-bill>

This page is intentionally left blank

Annexe A Local Authority's Strategic Role for Schools

The table below summarises the future role of the Local Authority by key areas. High level details are then provided on the emerging Government policy, the local position in Harrow and an Up-date for June 2011.

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
School Provision				
Support parents and families through promoting a good supply of strong schools	Changes in bringing forward proposals for new schools, free schools and academies. Presumption that all new schools will be academies. Some exceptions do apply and local authorities will be able to bring forward proposals. For example, a replacement school or combined primary school for separate infant and junior schools.	<ul style="list-style-type: none"> School Place Planning Strategy and Primary School expansion programme to meet increasing demand. Amalgamation Policy Programme to increase ASD provision in mainstream schools. Pressure on special school places Impact of potential academy status on place planning. 	<ol style="list-style-type: none"> Review guidance when available and implications for School Place Planning Strategy and related policies e.g. national Academies programme and locally Amalgamation Policy. Mainstream conversion process to academy e.g. as in implementation of amalgamation policy. Consider implications for consultation and decision making process eg Education Consultative Forum. Investigate James recommendations in line with current review of schools capital, including developing schemes, commissioning and monitoring delivery and governance arrangements. 	<ol style="list-style-type: none"> Report to Cabinet in July on School Expansion Programme. Working Group with Headteachers established. Approaches from 3 Free School Proposers. Meetings in May. Developing generic information pack for future approaches. Academies Toolkit being developed. Briefing Session Primary Schools in July 2011. Developing proposals for management and delivery of school capital projects. Consideration of emerging position post James Review. Education Funding Agency established with responsibility for schools capital and revenue funding.
Securing sufficient high quality places for 0-19 including early years and SEN	School capital funding – James Review recommendations published April 2011			

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
School Improvement				
Local authority to champion interests of pupils and communities by challenging under performance and focus on issues across more than one school.	<p>Removal of School Improvement Partners (SIPs) and requirement for schools to publish a School Profile.</p> <p>Government to increase the data available on schools including performance, expenditure and new indicators on pupil progress.</p> <p>Local authorities to challenge under-performance and undertake scrutiny</p> <p>Secretary of State to direct a LA to close schools causing concern.</p> <p>Local Authorities to determine own school improvement strategies.</p> <p>Local Authorities to submit plans for schools causing concern to the DfE.</p>	<ul style="list-style-type: none"> • Development of Harrow School Improvement Partnership (HSIP) with effect from September 2011. • Education Strategy and School Organisation services (ESSO) to commissioning Harrow School Improvement Partnership (HSIP) for support to schools. 	<ol style="list-style-type: none"> 1. Continued support for the development of HSIP. 2. Explore the Local Authority School Improvement role including, reporting to DfE on schools causing concern, scrutiny functions and reporting to members. 3. Secure sufficient capacity to support data review and analysis. 4. Develop the role of schools as universal providers within the new operating model for children's services. 	<ol style="list-style-type: none"> i. On-going. HSIP developing for implementation in Sept. Schools making formal commitments. Staff appointments in progress. ii. Monitoring details as emerging. Build into the Children's Services new operating model and the Education Strategy and School Organisation Service.

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
Admissions and Access				
Local authorities will co-ordinate admissions and ensure fair access to all schools as part of their democratic mandate to act on behalf of its population.	Remove the requirement to have an Admissions Forum and report to the Schools Adjudicator annually. Simplify the Admissions Code of Practice following consultation.	<ul style="list-style-type: none"> • Current operation of the pan-London co-ordinated admissions for all schools community and voluntary aided. • Potential service for buy-back to academies. 	<ol style="list-style-type: none"> 1. Respond to the consultation on the Admissions Code of Practice. 2. Monitor impact of academies. 3. Consider options for commercial development. 4. Consider function role of the Admissions Forum. 	<ol style="list-style-type: none"> i. Response to Admissions Code of Practice and Appeals Code of Practice Consultations being prepared. Report to EdCF June 2011 and Admissions Forum July 2011. ii. Other issues on-going and will be part of the development of the Education Strategy and School Organisation Service within Children's Services new operating model.

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
SEN				
Government's SEN and Disability Green Paper - Support and Aspiration	The green paper sets out a wide range of proposals aimed at creating a radically different system to support better life outcomes for children with SEN or disability.	<ul style="list-style-type: none"> • Current Children's Services operating model makes reference to the Green Paper. It proposes some changes for the SEN services including contributing education psychology resource to the integrated Services Teams. However, the new operating model consultation states that the service will be reviewed when the outcomes of the Green Paper are known. • SEN engagement in the planning of school provision, especially special schools. 	<ol style="list-style-type: none"> 1. Consider the implications of the Green Paper and the development of the ESSO function and new operating model. 2. Maintain essential contribution to the school place planning function. 	i. On-going

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
Other Statutory Functions: e.g. Governors.				
	In addition, to the provisions within the Bill there needs to be consideration of the continuing responsibilities of the local authority.	<ul style="list-style-type: none"> Proposals for the statutory functions to be included within the Education Strategy and School Organisation strand of Children's Services. Consideration of those responsibilities transferred to academies. 	1. Develop the ESSO function aligned with the Bill and remaining functions.	i. On-going and will be part of the development of the Education Strategy and School Organisation Service within Children's Services new operating model.

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
School Support Service Provider				
	Increasingly autonomous schools exercising choice of provider for services and a support from the government to improve value for money through procurement support.	<ul style="list-style-type: none"> Provider of a range of services, across the council through service level agreements. Impacts of schools becoming academies or seeking alternative providers of services. Academies Working Group considering implications for the Council of the schools' changing status 	<p>1. Consider a corporate approach to reviewing how services can be developed for the market place.</p> <p>2. Establish corporate mechanism to manage the transfer of schools to academy status.</p>	<p>i. SLA Officer workshop meeting on 30 June 2011 to consider a range of issues for all service providers to schools.</p> <p>ii. Incorporate into the mainstreaming process for academy conversion.</p>

Function	Government Policy	Local Position	Matters for Consideration	Up-date Position June 2011
Schools Forum and School Funding				
Principle to devolve maximum funding to schools, provide tools to ensure efficient use of resources and for schools to realise efficiencies through procurement and back office savings	Education Funding Agency established to directly fund academies and replace YPLA. Proposals for a National School Funding Formula. Introduction of pupil premium. Aligning funding for post 16 providers e.g. schools and sixth form colleges. James Review – recommendations published April 2011.	<ul style="list-style-type: none"> Schools Forum decision making forum for the Schools Funding Formula. Assessing financial implications of academy status. 	<ol style="list-style-type: none"> Respond to the consultation on the national funding formula. Explore decision making processes re funding Consider the implications of the James Review Recommendations. Academy implications 	<ol style="list-style-type: none"> On-going review of implications for academy funding. Awaiting outcome of 30 Local Authority JR of Government's Top Slicing of the DSG. Response to the consultation on National Funding Formula being developed. Report to EdCF June 2011.

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting:	27 June 2011
Subject:	School Expansion Programme
Key Decision:	No
Responsible Officer:	Adrian Parker, Head of Achievement and Inclusion Service
Portfolio Holder:	Councillor Brian Gate, Portfolio Holder for Schools and Colleges
Exempt:	No
Decision subject to Call-in:	No
Enclosures:	None

Section 1 – Summary and Recommendations

This report sets out a proposal for a school expansion programme, as part of the overall School Place Planning Strategy 2010 – 2013, to meet the projected increased demand for school places in Harrow that will be considered by Cabinet at its meeting on 21 July 2011.

Recommendations:

The Education Consultative Forum is requested to consider the proposal and to make comments for consideration by Cabinet.

Reason: (For recommendation)

To ensure there are sufficient school places to fulfil the local authority's statutory responsibilities.

Section 2 – Report

Introduction

1. The local authority has a statutory responsibility to provide sufficient school places for its area. Harrow has extensive experience of collaborative working with the schools in its area to achieve consensus about the changes needed to ensure sufficient places for the children seeking places in Harrow's schools.
2. The Council's School Place Planning Strategy 2010-2013 identified that additional primary places would be required from 2010 onwards and that over the next two years, the Council would monitor the impact of the additional reception places created by bulge classes and develop proposals accordingly. The Strategy stated that if increased demand continues and pupil numbers are sustained, then permanent expansions will be considered.
3. There is significant projected increased demand for school places in Harrow and across London in the next few years. London Councils has warned that there is a predicted shortfall of around 70,000 permanent school places across London over the next four years, largely concentrated in primary sector schools but predicted to feed through into the secondary sector in the 2014/15 school year.
4. At its meeting on 21 July 2011, Cabinet will be requested to approve the implementation of a school expansion programme to meet the increased demand for school places.

School Place Planning in Harrow

5. School place planning in Harrow is led by officers in Children's Services in liaison with officers from several directorates. A range of information is considered, including projections, pupil numbers and admissions data. Proposals to increase or decrease the number of school places are developed and recommendations made.
6. In addition there is liaison with neighbouring boroughs on school place planning issues, and colleagues with responsibility for other policy areas, including the Local Development Framework, Extended Schools and Early Years, and the 14-19 agenda.
7. One of the key elements of school place planning, when additional school places are required to meet increased demand, is capital funding to ensure sufficient space is available to accommodate the children. The officer group includes the School Capital Programme Service Manager to ensure holistic planning and forward planning for budget setting. The coalition government has announced its priorities for capital investment in schools are basic need, especially primary places, and capital maintenance.

8. The level of projected increased demand for school places in Harrow is such that the established arrangements need to be more formally incorporated into a school expansion programme. Government policies about Academies and Free Schools need to be considered both as part of the solution and for the additional dimension they bring to education provision.

Options considered

9. In February 2010, Cabinet agreed its School Place Planning Strategy 2010 – 2013. This strategy established the framework for officers to develop and bring forward options to ensure there are sufficient school places to fulfil the local authority's statutory responsibilities. The strategy sets out the detailed information that supports the development of proposals to change the number of school places. Included with the strategy is the School Roll Projections 2010 – 2016 Report prepared by the Education Performance Team (Partnership Development and Performance Division - PDP). This report brings together information on population projections, pupil roll numbers and housing developments in Harrow.
10. The Education Consultative Forum considered the strategy in January 2010 prior to the Cabinet decision, and receives regular update reports about the implementation of the strategy.
11. The strategy was adopted in the context of predicted significant continued growth in demand for school places, and a number of school reorganisation changes implemented in Harrow that could affect demand.

Current situation

12. Since September 2009 Harrow has opened additional Reception class places to meet the sustained additional demand that has been experienced by most other local authorities in the London area. These additional Reception classes have been opened in existing Harrow schools on a temporary basis. These additional classes are often referred to as 'bulge' classes, and the class progresses through the following year groups at the school. Five bulge classes were opened in September 2009, a further five bulge classes were opened in September 2010, and eight bulge classes will be opened in September 2011.
13. The Greater London Authority School Roll Projection Service provides Harrow with school roll projections up to ten years ahead. The increased demand for Reception places is projected to continue throughout this period and beyond, and will impact on all schools in Harrow.

Implications of the Projections

14. GLA projections of demand for Reception places show additional demand over the currently available permanent Reception places (2,550) of:
 - 13 additional forms of entry (FE) beyond the current capacity in 2012/13;
 - up to 15 additional forms of entry for 5 years from 2013/14 until 2017/18;

- followed by continued, though reducing, additional demand in subsequent years (14FE in 2018/19, 12FE in 2019/20, 10FE in 2020/21);
 - levelling of demand in 2024/25 at the level projected for 2012/13 (13 additional forms of entry) - this is based on comparison of birth rates in 2008 and projected for 2020.
 - the projected demand is spread across all the Primary Planning Areas (2-3FE per PPA). For primary sector school place planning purposes, the borough is divided into five geographic areas and a sixth planning area for voluntary aided schools.
15. It is not sustainable to meet the projected level of increased demand for Reception places through opening bulge classes alone during the next ten year planning period from 2012/13 onwards. A significant number of additional permanent places in primary sector schools will be required. It is considered that Harrow needs to increase the focus on this area of work and establish an expansion programme to increase the number of permanent places in Harrow schools.
16. This increased demand will follow through into the secondary sector in five years time (academic year 2016/2017). The expansion programme would therefore start with the primary sector and then encompass the secondary sector in due course. Alongside the creation of additional permanent places will be a more formalised temporary bulge class programme to provide the basic capacity required to meet the full projected demand.

Recommendation to July Cabinet

17. The Corporate Director for Children's Services will recommend to the Cabinet meeting on 21 July 2011 that a school expansion programme be established. Planning will need to be developed based on current provision and knowledge, though it will need to take account of external developments such as:
- free schools and academies;
 - emerging national capital strategy.
18. The programme will need to be developed and implemented in close partnership with Harrow's maintained schools and with the involvement of key stakeholders such as faith organisations, academies and any free school proposers. Representative primary headteachers have been identified to work with officers to develop initial proposals and principles that will be applied when identifying primary sector schools for expansion. There are three aspects to the proposed school expansion programme:
- Permanent places;
 - Temporary places (bulge classes);
 - Contingency places.

Permanent places

19. It is proposed that planning should be taken forward to establish 6-8 permanent additional forms of entry in the primary sector by 2016. It is believed this would be a sustainable level of additional places for the foreseeable future, and would avoid the need to remove places when the

level of increased demand reduces. The approach initially would be to open bulge year classes in schools being considered for permanent additional forms of entry to ensure the sustainability of the increase.

20. It is envisaged that the majority of these additional forms of entry would be established at existing maintained schools, though 2-3 of these permanent additional forms of entry are proposed to be provided through the creation of a new primary school(s). Currently there are two routes through which new schools may be established:
1. The emerging Harrow Core Strategy states there will be a need for a new primary school to meet the additional child yield from new housing developments in Harrow. It is expected that a new school would need to be located in the central area of Harrow, particularly should future new residential development be concentrated in the Harrow and Wealdstone areas. This may be established from 2015/16.
 2. In line with the government's policy, proposers may come forward to establish free schools in Harrow.
21. Work is being taken forward with Place Shaping Directorate colleagues to establish the proposed size of new school(s) and potential sites. In accordance with emerging details of the Education Bill there would be the presumption that a new school would be an academy or free school, rather than a community school, and open to proposers to apply.

Temporary places

22. It is proposed that it is planned to establish 4-6 temporary additional forms of entry per year. These will need to be provided through a rolling programme within Primary Planning Areas at schools that are not being permanently expanded. Contingency planning would be needed for more temporary additional forms of entry each year in case these are needed.

Temporary places

23. It is proposed that it is planned to establish 4-6 additional bulge class forms of entry per year. These will need to be provided through a rolling programme within Primary Planning Areas at schools that are not being permanently expanded.

Implications of the recommendation

24. The schools capital programme will need to be focussed almost exclusively on supporting the school expansion programme in order to meet the level of demand for school places. There are implications for the Council's financial strategy.
25. Though primary sector schools have been able to open temporary additional forms of entry through the use of space vacated following the changes to the ages of transfer, there are capital implications, and implications for the range of opportunities schools provide for the children and families in their area, that will need to be considered for this aspect of the programme. These include:

- Feasibility work will be required for all schools taking additional pupils / students, that also takes into account building condition issues.
- Separate junior schools continue to have four year groups and do not have space vacated through the school reorganisation changes in the same way as primary schools and separate infant schools.
- The Department for Education expectation will be that classroom capacity is fully used and that there is compliance with Building Bulletins 98 and 99. This will require rigorous examination of the use of all space in Harrow's schools, which may impact on provision. For example, Harrow's schools have developed rich provision for their pupils / students beyond curriculum requirements and provide extended services to children and families. Also, primary sector schools have had in place provision to meet Year 7 Key Stage 3 curriculum requirements, which is no longer applicable following the school reorganisation changes and may mean that some provision does not need to continue in the same way.

26. The size and nature of schools in Harrow will need to be considered. For example, it is envisaged there will be separate infant and junior schools that are expanded to four forms of entry, and all-through primary schools of four forms of entry may be considered appropriate. Free school promoters may be proposing one form of entry schools. A number of secondary schools in Harrow are expected to become academies later this year and there may be further academies in both the primary and secondary sector. Voluntary aided schools may also be considering opportunities for expansion. These schools will need to be closely involved and engaged in the implementation of the expansion programme.

Financial Implications

Revenue

27. Any school expansion programme will inevitably have significant financial implications. School revenue budgets are funded from the Dedicated Schools Grant (DSG). As the Department for Education (DfE) allocates DSG based on pupil numbers, any increase in pupil numbers results in additional revenue funding for the expanding school. As school budgets are based on pupil numbers in the January prior to the start of the financial year, there is always a funding lag when schools increase their pupil numbers. To ensure that schools who agree to an expansion are not financially penalised the Harrow school funding formula provides 'Additional Class Funding' for the period from September to the end of March, following which the mainstream funding formula will take effect.

Capital

28. The major impact will be on the capital programme. The exact cost will not be known until the details of which schools will be expanded are finalised. The expansion programme is likely to include a new school which, given the current national policy, could be either a Free School or an Academy funded directly by the DfE. There may also be the potential to utilise s106 agreements in respect of the new developments to provide for permanent expansions.

29. Another unknown is the extent of the spare capacity currently in the school sector. The change to the age of transfer created spare capacity in the primary sector that should serve to reduce the need for capital expenditure. Work to quantify the extent of spare capacity is being undertaken as a matter of urgency and this will inform the programme of works required. It is imperative that schools maximise the space allocated to teaching within the school. Not only will this minimise the amount of DfE capital grant that has to be allocated to the expansion programme but will make the school more sustainable from a revenue point of view. For example whereas the current school funding formula allocates a proportion of the school budget based on floor area any national funding formula is expected to see practically all school funding being based on pupil led factors. Consequently schools with large areas of non-teaching space would have to allocate a higher proportion of their budget to cover premises costs.
30. Funding the expansion programme will need to be considered as part of setting the 2012/13 to 2016/17 Capital Programme in the Medium Term Financial Strategy (MTFS). In 2011/12 the DfE acknowledged the need to provide additional places through the allocation of £3.2m of basic need capital grant. A national review of schools' capital is currently underway and no funding has been confirmed for 2012/13 onwards, though for planning purposes it is expected to be in line with the 2011/12 allocation. If the cost cannot be met from DfE capital grants then it is likely to be a call on the council's capital programme.
31. The council should be able to spread the cost of permanent expansions over a number of financial years as it will take time for the expansion to work its way through the school. This spread will assist with trying to manage the school capital programme within the envelope of grant funding, though this will need to be confirmed.

Equalities Implications

32. The Education Consultative Forum is requested to consider what equality implications there may be in relation to any of the proposals in this report. An Equalities Impact Assessment will be undertaken on any specific proposals.

Risk Management Implications

Risk included on Directorate risk register? No.
Separate risk register in place? No.

33. The directorate and corporate risk management implications for the council arising from a school expansion programme would be considered for inclusion on the directorate and corporate risk registers.
34. It is proposed to work with primary headteachers about developing sustainable provision to meet future demand for reception places. This will help to reduce risk that there will be insufficient provision of school places within Harrow to meet demand.

Corporate Priorities

35. The approach being adopted to respond to the government's consultation contributes to the Council's vision Working Together: Our Harrow, Our Community and the corporate priorities 'United and involved communities: a Council that listens and leads' and 'Supporting and protecting people who are most in need'.

Section 3 - Statutory Officer Clearance

Name:	Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	14 June 2011		
Name:	Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date:	15 June 2011		

Section 4 - Contact Details and Background Papers

Contact: Chris Melly, Senior Professional, Quality Assurance, Commissioning and Schools, Children's Services 020 8420 9270
chris.melly@harrow.gov.uk

Background Papers:

School Place Planning Strategy 2010 – 2013. Cabinet item 769 11th February 2010 <http://www2.harrow.gov.uk/ieListDocuments.aspx?CId=249&MId=4622>

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting:	27 June 2011
Subject:	INFORMATION REPORT - Update on the Potential Conversion of Seven High Schools to Academy Status
Responsible Officer:	Catherine Doran, Corporate Director Children's Services
Exempt:	No
Enclosures:	None

Section 1 – Summary

This report updates the Education Consultative Forum (EdCF) on the potential transfer of 7 Harrow High schools since the last EdCF meeting on 6th April 2011. It is intended to provide a short summary of developments and work undertaken and to be a basis for broader conversation at the meeting itself. Officers working on the issue will attend EdCF to provide an additional verbal update. EdCF members are requested to note the developments and work undertaken in this report and provide comment on the process.

FOR INFORMATION

Section 2 – Report

Introduction:

At its meetings on 1st March and 6th April 2011 EdCF received detailed reports on the Academies Act 2010, the position of 7 Harrow high schools investigating the possibility of transferring to academy status and some of the potential implications of any such transfer. Those reports set out a possible timetable that would lead to any schools deciding to transfer becoming academies by August 2011. EdCF had wide ranging debates feeding into a Cabinet decision on 17th March and 7th April 2011 that set a council position on the academy transfer issue and provided delegated authority to take work forward.

Update:

At the time of the last EdCF meeting the Governing Bodies of 7 High Schools (namely Bentley Wood, Canons High, Harrow High, Hatch End, Nower Hill, Park High and Rooks Heath College) had formally determined to investigate a transfer to academy status.

Each of the schools undertook a statutory consultation exercise, running from 7th March to 4th April. Harrow Council used its best endeavours to ensure a wide civic debate on this important issue, ensuring that parents, pupils and communities were encouraged to have their say and had access to a wide variety of resources and views on the issue. Officers and members attended public meetings for all governors, held conversations with concerned staff and their representatives, as well as with the schools concerned, to make clear the process and the various responsibilities that existed. The Council's website and communications activities were used to encourage widespread involvement across communities. Members, MPs, staff, community organisations and the Youth Parliament were all sent copies of, or provided with access to, the consultation documents and encouraged to respond. The Council helped to facilitate a debate by the Youth Parliament on the issue. The Director of Children's Services formally responded to each of the schools consultation papers with a detailed letter of response highlighting a range of important issues to be taken into account.

Each of the 7 schools concerned held public meetings and conversations with their staff about the possible implications of transfer.

Each of the 7 Governing Bodies has collated responses and prepared comprehensive analysis of the 'pros and cons' of status transfer. This has involved balancing the perceived benefits of new funding streams and greater autonomy from the Local Authority with the risks inherent in running a medium sized organisation, the school land and buildings, directly employing a workforce and entering a range of supply contracts.

All Governing Bodies have met and made the final decision to transfer to academies (subject to Secretary of State agreeing to enter a funding agreement with them.)

Section 3 – Further Information

All schools have stated that if they decide to transfer, it will be prior to the start of the autumn term 2011. In reality this will mean a transfer date of 1st August 2011. As previously reported to EdCF Council officers have carried out preparatory work on the basis that the transfer of 7 schools may happen. It has been a careful balancing act between doing just enough work to enable deadlines to be met if all schools decide to go forward, without over-committing resources on issues that may not be needed if some Governing Bodies decide not to proceed. Officers have been developing co-ordinated work streams on:

- Consultation and communications (e.g. ensuring Harrow communities including our remaining maintained school community are aware of the consultation process and encouraging a wide debate with good access to a variety of information and resources)
- Staffing and pensions (e.g. ensuring correct data is held on workforce issues before any formal TUPE transfer processes started)
- Land and property (e.g. investigating title and understanding any particular issues for individual schools around shared use, community use, playing fields, building condition, etc)
- Finance (e.g. modelling what likely financial implications to Harrow Council are of transfer of all or some of the schools)
- Service Level Agreements (e.g. clarifying what any Academy might wish to “ buy back” from the Local Authority, and investigating how best to organise and offer new services)
- Third party contracts(e.g. identifying the contracts that exist, those that need renegotiation, novation or termination and re-letting)
- Data and information transfer issues (e.g. identifying protocols for effective and lawful transfer of a range of sensitive data)
- Broader corporate implications for the Council (e.g. working through what some of the broader policy and organisational impacts might be if a significant number of schools decided to transfer)

As previously reported briefings have been provided to all members of the Council on this important issue and a small project team has been established to manage the Local Authority work involved.

For the schools transferring to academy status, the transfer of assets, staff and information will take place by the Local Authority, the transferring school and the new Academy Trust entering a tripartite transfer agreement. The Department for Education (DfE) has provided a model document for this purpose.

The DfE has also provided a model 125 year lease to transfer the school premises, as defined by the Act. The Act requires the Council to transfer to the new academy trust any land and buildings used wholly or mainly by the

community school. In the event that the school and the Local Authority cannot agree on the terms of the lease, including the extent of the school premises, the Secretary of State has power to compel the transfer of land. Legal Services have prepared site constraints reports in respect of all the sites which will be used to determine the precise land to be transferred in consultation with the schools. Investigation into issues around building condition (for the purposes of determining the condition in which the buildings would be required to be handed back at the end of the lease) are ongoing.

As set out in the previous report to EdCF a significant part of the work involves the potential transfer of staff in the 7 schools concerned to the new Academy Trust. On the basis all 7 schools convert to academies nearly 1400 staff will be TUPE transferred to the 7 new Academy Trusts. A series of conversations with staff and their representatives have started and will continue. For those schools that have voted 'yes' in May, the formal TUPE transfer process is already underway. The Council has sought to go above and beyond the minimum legal requirements in helping staff understand the process and, where possible, reduce anxieties inherent in any such change process. The Director of Children's Services has personally chaired meetings with trades unions on the issues to ensure strong leadership of these important relationships and she has made clear to schools and Governing Bodies the importance of keeping staff fully involved. Whilst the rights of employees under both pension schemes (Teachers and LGPS) concerned would not be affected by transfer, a range of complex issues requiring specialised actuarial advice required detailed investigation and consideration by the Pension Fund Investment Fund and the Licensing and General Purposes Committee. On 17th May the LGPC determined:

- A deficit recovery period of 20 years be used to recover the share of deficit allocated to each academy.
- That the 20 year recovery period was applicable only for as long as the academy or the DfE does not give notice of exiting its academy status.
- That the share of the deficit to be transferred to the school be calculated based on the liabilities of the current LGPS staff who transfer to the Academy and the estimated liability for deferred and pensioner member formally employed by the former maintained school.
- That any school transferring to Academy Status will pay a separate employer contribution and not be pooled with Harrow Council. There would be no stabilisation of contributions.

There is now a significant amount of work that both Harrow Council and the schools concerned will need to undertake over the next 2 months to meet the 1st August 2011 deadline.

A significant amount of detailed legal work is required to ensure that the academy trust's solicitors have received the information that they need to prepare and submit reports on title to DfE for approval by the date DfE have set (15th June) as the deadline 6 weeks before the 1st August cut off point. Shared usage, kitchen arrangements, playing field usage, issues around mobile classrooms, caretaker's houses and evidencing historic building works are all

currently being progressed by the Council and the schools. The leases will need to be negotiated and agreed between the parties during June and July.

Perhaps the largest area of work will be in the TUPE transfer of staff. Whilst it is not anticipated that there will be a significant number of 'measures' that require detailed working through, the large number of staff and the complexity of individual terms and conditions will mean a sizeable amount of time will be devoted to staff transfer. The Council's HR team are taking on an additional resource to ensure they can cope with the anticipated increase in requests for information from individual staff members.

As reported elsewhere in this report the issue of Academies buying back Council Services (SLA's) is an important one. Whilst the transferring schools have expressed their intention to take most Council Services until Spring 2012 there is much to be done to understand particular requirements and ensure a consistent quality of services are provided to the schools.

Officers have built into the project a detailed evaluation of the strengths and weaknesses of the approach taken with the intention of producing a 'Rough Guide' to becoming an Academy in Harrow for the benefit of any other schools considering transferring, enabling them to be clear of the expectations that Harrow Council will have of them in the pathway to any transfer.

Officers working on the Academies Project will attend EdCF to provide a further verbal update on what is a fast moving programme, and to answer any further questions that members of the Forum may have.

Section 4 – Financial Implications

Currently Harrow schools are funded from the Dedicated Schools Grant (DSG) which is allocated to the council based on pupil numbers and for 2011/12 is estimated at £169.4m. The majority of this funding is passed to schools however £11.9m is retained to fund central expenditure budgets, mainly specialist Special Educational Needs (SEN) provision.

Academies are funded directly from central government. An Academy will continue to receive its current school budget however they will get additional funding, known as Local Authority Central Spend Equivalent Grant (LACSEG), to take account of the new responsibilities which they take on from the Local Authority. There are significant financial implications of the seven schools converting to Academy, mainly in the following three areas:

- **Clawback of DSG in respect of the seven schools' budgets**

From 1 August the Academies will receive their funding directly from the Young People's Learning Agency (YPLA). To enable the YPLA to make these payments the DfE will reduce the DSG allocated to the council for 2011/12. Work has begun with the YPLA to determine the amount they will recoup from the 2011/12 DSG. For the period in the 2011/12 Academic year

(Sept 2011 to March 2012) it is straightforward however there are complications for August 2011 as the YPLA use the 2010/11 school budget, which in Harrow's case is skewed due to the change to the age of transfer. This is currently being worked through with the YPLA to ensure accuracy.

- **Clawback of Dedicated School Grant in respect of Central Items**

The DfE will also clawback a proportion of centrally retained DSG to partly fund the LACSEG funding given to the Academies. The clawback in 2011/12 is expected to be £126k. The full year impact in 2012/13 is expected to be £189k. This mainly relates to the Ethnic Minority Achievement Service and Admissions service.

It is hoped to minimise the impact of this loss of funding by offering an SLA (service level agreement) for these services to the newly converted academies. If SLA income does not cover the lost DSG it will create a budget pressure in the DSG central expenditure. This will have to be addressed, in conjunction with Schools Forum, probably through a combination of service reductions, efficiencies and ultimately a compensating increase in the DSG central expenditure budget. It should be noted that the DSG central expenditure budget has overspent in recent years solely as a result of relentless pressure on specialist SEN provision.

The DfE had planned to clawback DSG in respect of SEN which would have significant implications for the specialist provision for the visually and hearing impaired. Fortunately the DfE deferred this for 2011/12 though it may return as an issue when setting the 2012/13 DSG budgets.

- **Implications for services provided to schools through SLAs**

As detailed above the Council currently provides services to the seven schools through a range of SLAs. If schools were to cease purchasing Council services there is a potential loss of income which will have both budget and service implications for the Council, especially where the Council employ staff to provide these services. Detailed work is being undertaken on each SLA following which the full financial impact will be known.

The amount of additional funding (LACSEG) that the seven schools will receive has now been agreed. As the schools transfer in the 2010/11 academic year they will get protection funding for 2011/12 although due to technical adjustments by the DfE it is not as high as anticipated. Based on the revised LACSEG rate the schools will receive between of £260k and £503k depending on the size of the school. Without protection the additional funding would range from £220k to £417k.

The funding of both academies and maintained schools is currently under national review and is expected to change significantly for 2012/13 onwards.

Best practise project management approaches have been adopted in creating a programme to meet the demanding timetables involved if all Governing Bodies

decide to proceed. This includes a risk log that seeks to identify key risks and manage them as part of the programme governance.

Equalities implications have been considered throughout the process and brought to the attention of the Governing Bodies as decision makers in relation to conversion. The Council has focused on its new strategic role for education provision, which includes ensuring equity on issues such as admissions, exclusions and special educational needs across all schools whatever their status. An EQIA for the Council has been completed and a copy passed to the consultant advising the schools. Each of the 7 schools also undertook its own Equalities Impact Assessment.

Section 5 – Corporate Priorities

Name: Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 14 June 2011		
Name: Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 14 June 2011		

Section 6 - Contact Details and Background Papers

Contact:

Alex Bailey/ David Harrington (academies project team) 0208 420 5248
alex.bailey@harrow.gov.uk, david.harrington@harrow.gov.uk

Background Papers:

Previous papers of EdCF, Cabinet Reports and Licensing and General Purposes Committee Reports (all publicly available on the Harrow Council website)

This page is intentionally left blank

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting: 27 June 2011

Subject: INFORMATION REPORT -
SEN and Disability Green Paper

Responsible Officer: Catherine Doran, Corporate Director,
Children's Services

Exempt: No

Enclosures: None

Section 1 – Summary

This report sets out information on the government's green paper Support and aspiration: A new approach to special educational needs and disability published on 9 March 2011.

FOR INFORMATION

Section 2 – Report

See Section 6 for the link to the green paper and consultation papers.

The green paper is split into five main sections as follows:

- Early identification and assessment
- Giving parents control
- Learning and achieving
- Preparing for adulthood
- Services working together for families

The government wants to fundamentally reform the SEN system to address problems including:

- parents having to battle to get the support their child needs
- SEN statements not joining up education, health and care support
- children falling between the gaps in services or having to undergo multiple assessments
- multiple layers of paperwork and bureaucracy adding delays to getting support, therapy and vital equipment
- a confusing and adversarial assessment process, with parents' confidence in the system undermined by the perceived conflict of interest where the local authority must provide SEN support as well as assess children's needs
- Ofsted and others suggest that too many children are being over-identified as SEN, which prevents them from achieving their potential because teachers have lower expectations of them.

The government proposes to:

- include parents in the assessment process and introduce a legal right, by 2014, to give them control of funding for the support their child needs
- replace statements with a single assessment process and a combined education, health and care plan so that health and social services is included in the package of support, along with education
- ensure assessment and plans run from birth to 25 years old

- replace the existing complicated School Action and School Action Plus system with a simpler new school-based category to help teachers focus on raising attainment
- overhaul teacher training and professional development to better help pupils with special educational needs and to raise their attainment
- inject greater independence from local authorities in assessments by looking at how voluntary groups might coordinate the package of support
- give parents a greater choice of school and give parents and community groups the power to set up special free schools.

To help children that have a learning need, but not necessarily a special educational need, it is proposed to:

- Extend the Achievement for All programme so personalised support is mainstream in all schools. This programme has seen an increase in results and a decrease in pupils on the SEN register.
- Facilitate the transition to the open market of Every Child a Reader, Every Child a Talker and Ever Child Counts programmes to help those children struggling with early communication, reading and mathematics.
- Introduce phonics-based training to support children who need additional help in reading.
- Work with SEN specialists to develop the Reading Progress Check for six year olds to help identify children who require additional support.
- Introduce a new performance table indicator to give parents clear information on the progress of the lowest attaining pupils.
- Direct funding to the most deprived pupils – a third of whom are currently identified as having SEN – through the Pupil Premium.

Section 3 – Further Information

- Consultation runs until 30 June 2011 and includes specific questions (there are 59).
- By June 2011: expressions of interest from groups of local authorities to start piloting a single assessment process and to join the existing individual budget pilots (from September 2011).
- Work with local authorities and other partners to test a system of banded funding.

- Look to take forward the legislative changes needed from 2012 to secure the new 'Education, Health and Care Plan', the offer of a personal budget and any other necessary improvements identified by the pilots.

Section 4 – Financial Implications

As this is at the consultation phase there are no immediate financial implications arising from this report. If implemented the proposals are likely to have significant financial implications which would need further consideration and approval, with any financial implications highlighted and incorporated into the Council's Medium Term Financial Strategy.

Section 5 – Corporate Priorities

- Supporting and protecting people who are most in need.

Name:	Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	14 June 2011		

Section 6 - Contact Details and Background Papers

Contact: Roger Rickman, Divisional Director, Special Needs Services, Children's Services. Telephone 020 8966 6334

Background Papers:

The consultation papers on Support and aspiration: A new approach to special educational needs and disability consultation are available on <http://www.education.gov.uk/consultations/index.cfm?action=consultationDetails&consultationId=1748&external=no&menu=1>

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting: 27 June 2011

Subject: INFORMATION REPORT - Capital Update

Responsible Officer: Amanda Henton, Interim School Capital Programme Team Manager

Exempt: No

Enclosures: None

Section 1 – Summary

This report sets out the latest position on schools capital, outlining progress and developments in the 2011/12 Capital Programme for schools.

FOR INFORMATION

Section 2 – Report

Introduction:

1. At the previous Education Consultative Forum (EdCF) meeting of 6th April 2011, the Forum took note of the intended Capital Programme for the Department for Education (DfE) funding for the Financial Year 2011/12. The Forum agreed that the projects were in line with expectations of how the funds would be allocated, and agreed that the proposed projects may proceed to the council's approval process for projects.
2. This report provides an update on the how the projects have developed through this process and gives a brief outline of how they are developing through the construction stages.
3. The report also provides a brief update to EdCF on the changes to Capital Strategy currently taking place for future projects.

Project Development:

4. Several Business Cases were presented at Capital Forum on 27th April 2011. These included three school amalgamation projects (Grange, Elmgrove and Longfield schools), the first phase of a proposed school rebuild (Marlborough), and a number of Catering projects which are to be completed using budgets carried forward from the previous year (9 satellite kitchens for primary schools and dining facilities at Salvatorian College).
5. These business cases were all approved, and signed off by all relevant parties (including the Corporate Director, Portfolio Holder, Head of Finance, and where relevant the Leader).
6. Further Business cases for Weald schools and small scheme/feasibility study works will be submitted over the next two capital forums.
7. The completion of feasibility works, production of outline design, and in some cases development of detail design and production of agreed prices with our Partner Contractor are well underway, and we aim to have two of the three amalgamation works complete by the new school term in September 2011. Elmgrove schools amalgamation works include a new build entrance which will not be complete until next year, however, necessary amalgamation works are being progressed such that the school is ready to operate as one school by September 2011. The satellite kitchen work is also all due to be ready for the start of the 2011 school year, although schools may opt to start using the facilities a little later than this due to practical issues of commencing the new arrangements at the beginning of term.

8. We are underway with the Marlborough Primary School design where many surveys have already taken place as well as outline discussion with the Planning Department regarding the feasibility of eventually increasing to three forms of entry school at this popular location and outstanding school.

Section 3 – Further Information

9. The Capital Strategy for Harrow is currently under review. It is likely that changes to allocation of Schools Capital funded by DfE will be relatively unaffected, except that project selection and approval will need to comply with more rigorous approvals processes now being established at Capital Forum, and an improved monitoring regime.
10. However, for the Council Capital, a new regime will be established which will shift the focus of allocation of funding to a project based system. Each directorate will place bids for council capital, and their bids will be assessed against a set criteria based on the Capital Strategy objectives. This means that it is therefore feasible that schools projects may be selected as part of that funding, although there are many requirements from areas where there is no other funding source available which may take precedence over the remaining schools projects once the DfE funding is spent.
11. In terms of development of a comprehensive assessment of school needs and resulting prioritised projects lists, this work is underway and will continue until complete. It is anticipated that this may take some time, but the aim will be to have a more informed view in time for allocation of Capital funds for Financial Year 2012/13.

Section 4 – Financial Implications

12. The approved Children's Services capital budget for 2011/12 totals £8.05m, of which £6.7m is financed by DfE capital grants. To date business cases' totalling £5.6m have been approved. The current position is that the budgets set out for the projects are adequate and there are no forecast budget variances. As detailed above the remaining business cases are being developed and will be submitted over the next two capital forums for approval.

Section 5 – Corporate Priorities

13. These considerations will support the Council's Corporate Priorities for 2011-2012.
 - United and involved communities: a Council that listens and leads
 - Supporting and protecting people who are most in need

Name:	Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	15 June 2011		

Section 6 - Contact Details and Background Papers

Contact:

For any further information on the progress of the Capital Programme, please contact Amanda Henton on 0208 4241520.

Background Papers:

Previous EdCF report '2011/12 Schools' Capital Programme' dated 6th April 2011.

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting:	27 June 2011
Subject:	INFORMATION REPORT - Department for Education Consultation on School Funding Reform
Responsible Officer:	Catherine Doran, Corporate Director Children's Services
Exempt:	No
Enclosures:	Appendix A - Response to consultation on School Funding Reform: Rationale and Principles

Section 1 – Summary

On 13 April 2011 the Department for Education (DfE) issued the expected consultation document on introducing a new national school funding regime which would apply to all schools including maintained, academies and free schools. This report updates the Education Consultative Forum (EdCF) on the proposals included in the consultation including a copy of the council's response to the proposals.

FOR INFORMATION

Section 2 – Report

Introduction

The government wishes to move to a national funding formula for schools as soon as possible. The basis of the consultation is that the current funding system is flawed and unfair and that a new, mainly national, funding formula should be introduced. This is the first of two consultations, which covers the underlying principles. The consultation closed on 25 May 2011 and a further consultation, which is expected to propose the detail especially on the more complex areas such as special educational needs, is due in the summer.

New National Funding Formula

Currently the majority of school funding is allocated to Harrow based on pupil numbers through the Dedicated Schools Grant (DSG). It is then distributed to Harrow schools based on the Harrow School Funding Formula. This formula is mainly historic but has been developed over a number of years, in conjunction with Schools Forum, to reflect local circumstances. If implemented a new national funding formula would no longer be subject to local variation apart from a few specified exceptions. The one exception mentioned is a mechanism to support small schools.

If the government proceed with a national funding system for schools, the local authority would have very few responsibilities with regard to funding schools. This does raise issues regarding the future of the Schools Forum which are not addressed in the consultation. Moving from a system where Schools Forum has a key role, to a national funding formula controlled by central government, appears to move influence and control away from schools.

Likely Factors in a New National Funding Formula

Any school funding formula consists of indicators that attempt to meet the different needs of pupils and schools. It is expected that the next consultation will discuss in detail such factors, but they are seeking views on some key principles now. The current view appears to support pupil led characteristics more than school characteristics, therefore the majority of the funding would be allocated on pupil numbers with deprivation being recognised through the Pupil Premium. The school census collects data on pupils so it is easier for central government to allocate based on pupil factor rather than school factors. It is also more supportive of allowing new providers.

The following areas are recognised as being problematic in moving to a national funding formula:

- **'High Cost Pupils' including Children with Special Educational Needs**

The aim is that the national funding formula should be able to meet the needs of most pupils, including the majority of children with special educational needs, who are educated in mainstream schools. They recognise that there are many pupils whose needs are costly to meet and that cannot be met through a formulaic approach, and therefore there will be a need for local authorities to have a substantial pot of funding for high cost pupils outside the funding formula.

How this pot of funding will work will be the subject of the second consultation, especially the key issue of how to distinguish between low cost needs covered by the formula and high costs needs. This will cover the issues raised in the SEN green paper including:

- **Funding for SEN Support Services** - It is expected to address the issue of double funding of SEN support services with academies to ensure that “responsibility for providing and funding services is clear”.
- **Banded funding framework** – the DfE propose to explore a national banded framework for funding high cost provision for children and young people with SEN or who are disabled, in addition to what is normally available in schools. It is expected that there would be local flexibility to determine the levels of funding to be associated with each level and type of provision.
- **Alignment of funding across the age range** – to bring greater alignment of the different funding streams for children and young people with SEN, or who are disabled, from birth to 25 years of age.

- **Early Years Funding**

If a fair funding formula is introduced for reception to year 11 provision, there will obviously be implications for how free early education funding will operate. The relationship between free early education funding and the fair funding formula, as well as how early education funding is distributed, still needs to be clarified.

Transitional Arrangements

DfE acknowledge there will be a need for significant protection arrangements as some schools will see their budgets decrease and other schools will see the converse. They also recognise that the more notice they give schools of changes to their budgets the more they will be able to cope with those changes. For the current spending review the DfE expect the pupil premium to operate outside these transitional arrangements.

The council submitted a response to the consultation, attached as Appendix A. As the consultation only ran for 5 weeks it limited the ability to incorporate stakeholder comments, however the response was considered by Schools Forum at their meeting in May. For the second, more detailed consultation, due in the summer views from a wider scope of stakeholders will be sought including all schools.

Financial Implications

As this is at the consultation phase there are no immediate financial implications arising from this report. If implemented the proposals are likely to have significant financial implications and would need to be subject to further consideration and approval by both Schools Forum and the Council.

Risk Management Implications

Following confirmation of the detailed proposals a full risk assessment will be undertaken to identify key risks and manage them as part of the programme governance.

Equalities Implications

The proposals, if implemented, would have an impact on Special Educational Needs provision and therefore are likely to require an Equalities Impact Assessment. Given that any resulting changes will be statutory, and that the Local Authority has no real power of veto, then the focus long term will be on the residual responsibilities.

Corporate Priorities

These considerations will support the Council's Corporate Priorities:

- United and involved communities: a Council that listens and leads
- Supporting and protecting people who are most in need

Section 3 - Statutory Officer Clearance

Name: Emma Stabler



on behalf of the
Chief Financial Officer

Date: 14 June 2011

Section 4 - Contact Details and Background Papers

Contact: Emma Stabler, Finance, Business Partner – Children’s Services
020 8424 1978. emma.stabler@harrow.gov.uk

Background Papers: “A Consultation on School Funding Reform:
Rationale and Principles” - Department for Education
<http://www.education.gov.uk/consultations/index.cfm?action=conResults&consultationId=1756&external=no&menu=3>

Appendix A

Response to ‘A consultation on School Funding Reform : Rationale and Principles’

- 1. Do you agree with the stated characteristics of an ideal school funding system?**
- 2. Are there further characteristics the system should have?**
- 3. Do you agree with the analysis of how the current system falls short of these aims?**
- 4. Do you agree with the case for reforming the system?**

While few would disagree that the current system has flaws it has provided schools with relatively stable budgets. The proposed characteristics of a good funding formula should include stable and predictable.

Any desire to achieve fairness needs to be tempered by the need to ensure that school budgets are not subject to significant variances. When introducing a new funding regime there should be adequate transitional arrangements in place to minimise the turbulence on school budgets.

Pupil Premium

- 5. Do you agree that the aim of ensuring all deprived pupils get the same level of funding no matter where they live is the right one?**
- 6. Do you agree the underlying funding formula needs to change to meet this aim more quickly and effectively?**

Ensuring that all deprived pupils get the 'same level of funding' is not the same as every deprived pupil attracting equal funding. Due to the extra employment costs in London and the South East the same cash grant secures less support for pupils. It is a fundamental flaw of the pupil premium that it does not include an area cost adjustment to recognise the additional staffing costs of London schools.

A Fair Funding Formula

- 7. Do you think the school funding system should be based on a purely national formula? Or should there be flexibility for local decisions about funding levels?**
- 8. If so should that flexibility be limited and if so how?**
- 9. If there is local flexibility what should the roles of local authorities' schools and the Schools Forum be in decision making?**

10. If there is local flexibility for maintained schools how should Academies and Free Schools be funded?

There are instances where having local flexibility is vital. The following areas are recent examples where Harrow's Schools Forum has amended its school funding formula to respond to local issues:

- To provide timely funding for teachers and equipment where schools agree to run additional classes in order to provide places for growing pupil numbers. A national funding formula, based on lagged pupil numbers, would risk schools being financially penalised by agreeing to run an additional class, as they would have to wait until the next financial year before receiving funding for the extra pupils. This will significantly hamper Harrow in managing the current significant increase in primary pupils.
- Significant amendments were needed to the funding formula to support the change to the age of transfer that Harrow undertook in September 2010. Any National Funding Formula will have to consider how it will deal with a whole range of school reorganisation issues if it is to be sustainable and viable in the longer term.
- The schools contingency managed by the Schools Forum provides a safety net for Harrow schools. If they are facing exceptional financial circumstances they have an opportunity to make a bid to the Forum where it's considered by education professionals who have knowledge of Harrow's schools.

Academies and free schools are also likely to benefit from a funding formula that is responsive enough to adapt to local issues.

'High Cost Pupils' including Children with Special Educational Needs (SEN)

11. How do you think SEN support services might be funded so that schools, Academies, Free Schools and other education providers have access to high quality SEN support services?

12. How do you think a national banded funding framework for children and young people with SEN or who are disabled could improve the transparency of funding decisions to parents while continuing to allow for local flexibility?

13. How can the different funding arrangements for specialist provision for young people pre 16 and post 16 be aligned more effectively to provide a more consistent approach to support for children and young people with SEN or who are disabled from birth to 25?

There are significant flaws in the current SEN funding regime which would benefit from review including:

- Recoupment of SEN costs between authorities which is bureaucratic, costly and litigious
- The split of funding responsibilities for post 16 which is complex, opaque and unfair.
- The system of costed statements which again is costly and bureaucratic and may not even be that effective at meeting pupil's needs.
- Significant influence of the tribunal system.

Any new funding regime needs to reduce rather than add to these issues. It needs to recognise the interdependence between SEN provision in mainstream schools, special schools and specialist independent provision. For example if schools do not receive adequate funding to commensurate for the additional costs of SEN education there will be increasing levels of pupils with SEN being pushed out mainstream schools into more costly specialist provision. Also any funding formula should not ignore the significant pressure nationally on SEN budgets at every level.

Early Years Funding

- 14. How successfully has the Early Years Single Funding Formula (EYSFF) been implemented? How might it be improved?**
- 15. How important is an element of local flexibility in free early education funding? What might alternative approaches look like?**
- 16. How should we identify the total amount of funding for early years and free early education for three year olds and four year olds not in reception from within the overall amount of 3-16 funding?**

The implementation of the EYSFF was relatively successful however the system does have inherent flaws, for example the schools element is covered by the minimum funding guarantee which doesn't extend to private, independent and voluntary providers. A national funding formula for PVI providers would have benefits as there are often chains of providers who cross authority boundaries although local flexibility to respond to PVI providers would be welcomed.

Elements of a Fair Funding Formula

- 17. Should the formula include only pupil led factors or also school led factors?**
- 18. What factors should be included?**

19. What is the right balance between simplicity and complexity?

There is always a balance to be sought between simplicity and fairness. The more simple the formula the less it will take into account the unique characteristics of individual schools. Harrow's current funding formula takes account of a number of school characteristics including:

1. premises related funding
2. business rates
3. landlord building maintenance
4. Key Stage 1 funding for small class sizes
5. Small school allowance

How should DfE manage the transition to the new funding system

20. What level of change in budgets per year can schools manage?

21. How much time do schools need to plan for changes in their funding?

22. When is the right time to start moving towards a fair funding formula?

Transitional protection will be key in implementing a successful formula. The constraints on total funding will restrict the speed at which schools can move to a new funding formula without causing significant problems for schools. Given that schools spend approximately 80% of funding on staff, cuts in budgets will inevitably lead to a reduction in staff. In order to avoid large scale redundancies schools will need to be given time to adjust staffing levels through natural wastage. Schools are facing high inflation on other costs such as energy costs which will hamper their ability to manage budget reductions. Based on the experience of the change to the age of transfer I would suggest that schools need at least 3 years to deal with a budget reduction. If the reduction is in excess of 10% then they would need significantly longer.

This page is intentionally left blank

CONSULTATIVE FORUM

Date of Meeting:	27 June 2011
Subject:	Consultation on the Changes to the Admissions Framework
Key Decision:	No
Responsible Officer:	Adrian Parker, Head of Achievement and Inclusion Service
Portfolio Holder:	Councillor Brian Gate, Portfolio Holder for Schools and Colleges
Exempt:	No
Decision subject to Call-in:	No
Enclosures:	Appendix 1 – Draft Consultation Response Appendix 2 – Draft School Admissions Code Appendix 3 – Draft School Admission Appeals Code

Section 1 – Summary and Recommendations

This report sets out the government's consultation on changes to the admissions framework, and a draft response to the consultation.

Recommendations:

The Education Consultative Forum is requested to consider the draft response and to make comments for inclusion in the response.

Reason: (For recommendation)

To provide Education Consultative Forum members the opportunity to contribute to the council's response to the government's consultation.

Section 2 – Report

Introduction

1. The Department for Education launched its consultation on the changes to the admissions framework on 27 May 2011. The consultation includes a draft School Admissions Code and a draft School Admission Appeals Code, which are at the centre of proposed changes to the admissions system. The consultation closes on 19 August 2011. The link to the consultation papers on the Department for Education website is given in Section 4 – Background Papers.
2. The government intends to publish its response to the consultation and a revised set of codes by the end of September 2011, to allow admission authorities time to determine their arrangements for 2013 in line with them. The codes would be brought into force in early 2012, subject to the passage of the Education Bill as some of the changes are subject to this Bill becoming law.
3. The government's stated aim is to simplify the codes to make them easier to read and understand and clearer in terms of what admission authorities must and must not do. The changes are not intended to weaken the admissions system. They have been drafted from an assumption that all schools and admission authorities seek to comply with the code, and building on the principle of placing trust back in schools and head teachers. They seek to reduce burdens and bureaucracy by removing unnecessary prescription and elements that drove cost in to the process. The government believes that this system will be simpler for parents to navigate and more transparent.
4. The local authority is the admissions authority for community schools. The admissions authorities for voluntary aided schools and academies are the governing bodies or trusts.

Options considered

5. The key policy changes to both codes are listed in Appendix 1, together with the consultation questions and initial draft responses. Education Consultative Forum members are requested to consider the draft response and to make comments for inclusion.

6. The rationalising of the content of the codes is welcome, and they are shorter and more accessible documents. Many of the proposed changes contribute to achieving the general aims, and this is reflected in the draft responses in Appendix 1, which are mostly supportive.
7. However, there is particular concern about the proposal relating to schools being able to increase their planned admission number. There are also some changes in the codes that are not the subject of specific consultation questions, but the Council may wish to comment on these. Commentary about these issues is given in the paragraphs below.

Changes to the Published Admission Number

8. The government proposes all schools (that are their own admission authority) that are popular with parents will be free to increase their Planned Admission Number (PAN), and admission authorities will no longer have to get the approval of the local authority. Anyone who thinks proposals to increase the PAN of a school are unfair, unlawful or not in compliance with the Code can object to the Schools Adjudicator. However, there will be a strong presumption in favour of the increase unless it would lead to a clear threat to pupil safety.
9. It is proposed to disagree with this proposal for the following reasons:
 - Currently there is a presumption that expansion of successful schools should be approved, and the existence of surplus capacity in other schools should not be sufficient to prevent expansion. The government proposes that in respect of an objection to an increase in PAN, there will be a strong presumption in favour of increase unless the increase would lead to a clear threat to pupil safety. In this context, it is of concern that there is no reference to the potential capital implications of increases to PAN nor any requirement to consult the local authority. Without the requirement to consult, it is unclear how issues around pupil safety will be raised by interested parties.
 - There should be a requirement to consult the school community, local residents and the local authority, about proposals to increase the PAN, and to take views into account.
 - Strengthening the presumption in favour of the increase in PAN at successful schools would add to the potential to take children from other schools, and hence add to the danger of a two-tier system of schools arising in an area during a time of reduction in demand for school places.
 - There may be an issue of inefficient use of resources if additional class(es) are built as a result of these proposals when there is space available at another school(s) locally.

If these concerns were addressed following the consultation, the local authority position could be reconsidered in relation to this proposal.
10. The consultation seeks views on what sort of criteria the Schools Adjudicator must take into account when considering objections to an

admission authority's plans to increase PAN. In the draft response, the following criteria are proposed:

- Improvement in educational standards.
- Consistent with the identified local capital investment priorities agreed with responsible bodies in the area. If the government accepts the James Review recommendations, there will be a local capital investment plan drawn up in each local authority area involving all responsible bodies (i.e. those which own and manage facilities) through a process hosted by the local authority.
- Demand for school places in the local area.
- Consideration of the net capacity assessment of the school.
- Value for money in capital terms.
- Outcome of the consultation about the proposal (as proposed above).

Giving admissions priority to children attracting the Pupil Premium

11. The government proposes that Academies and Free Schools should be able to give priority to children attracting the Pupil Premium in their admission arrangements.
12. It is acknowledged that any proposal that contributes to narrowing the gap in educational achievement is to be welcomed. However, it is proposed to respond 'Not Sure' for the following reasons:
 - It is unclear why this proposal is not to be made available to community and voluntary aided schools.
 - Some commentators have questioned whether this proposal will have the desired impact if the additional costs exceed the value of the Pupil Premium.
 - It is likely that parents would be concerned that local children would not get places if priority was given to children attracting the pupil premium.

Children of school staff

13. The government proposes to allow children of staff at the school to be included as an oversubscription criterion. Admission authorities would define what they mean by 'staff'.
14. It is proposed to disagree with this proposal for the following reasons:
 - There is already provision for this criterion if there is a demonstrable skill shortage. Harrow would agree with this current provision remaining in the revised code.
 - This would not be popular with parents if places are given to school staff ahead of local parents when there is no skills shortage.
 - Potential impact on lower achieving or less popular schools, where high quality staff may be encouraged to move to another school to enable their children to attend, which would be to the detriment of their present school.

- It is unclear why school staff are being treated differently to other public sector staff. There are already targets and policies for wraparound care at schools and flexible working policies, which should ensure that working parents can seek an appropriate work/life balance and manage their childcare arrangements.

Admission Forums

15. The government proposes to remove the requirement to set up Admission Forums and to leave it to local partnerships to develop and grow. There is reference in the consultation paper to knowledge of a number of areas where local partnerships want to continue to operate in a voluntary arrangement.
16. This issue was included in the report to the Education Consultative Forum (EdCF) on 6 April 2011, and the question was raised as to whether EdCF could be the forum for discussion on admission arrangements after the requirement to establish an Admissions Forum is ended? Members of the Education Consultative Forum felt that given the substantial changes occurring within education nationally, it was difficult to identify the exact role of the Forum at this stage. Further consideration was needed, and options should be kept open.
17. On 19 May 2011, Cabinet considered a report on the Local Authority's Strategic Role for Education in Harrow. The report pointed out that currently there are a number of education related consultative committees and proposed it is timely to consider the role and purpose of existing consultation mechanisms. Given the Local Authority's role as a champion of parents and young people, a formal vehicle for consultation and dialogue would be an essential part of this function, which possibly a revised EdCF could provide. Cabinet agreed in principle to the consultation mechanisms being reviewed and revised and recommendations being brought back to a future meeting of Cabinet, and that a further report be received in the Autumn to confirm the progress in areas including decision Making and consultation forums.
18. The views of the Forum about the nature of local partnerships and the arrangements for formal consultation forums would be welcome to include in the review.

Role of the Schools Adjudicator

19. The government proposes changes to the role of the Schools Adjudicator in line with the aims to make requirements clear in the Code and for admissions authorities to be accountable to those affected by the arrangements. Some of these proposals are subject to the passage of the Education Bill.
20. It is helpful towards these aims that:
 - The opportunity to refer objections to admissions arrangements to the Schools Adjudicator will be open to anyone, and not restricted to particular groups.

- The deadline for objections to the Schools Adjudicator is brought forward a month.
 - The School Adjudicator's remit will include academies.
 - The Schools Adjudicator will retain the power to consider specific objections and discretion to examine other aspects of admissions arrangements. The binding nature of the Schools Adjudicator's decisions will remain, though the admission authority will have the legal responsibility to bring its admission arrangements into line with mandatory requirements in order to comply with the Schools Adjudicator's determination.
21. However, there may be consequences for the overall arrangements in an area that may be considered to disadvantage some groups from the cumulative effect of:
- The Schools Adjudicator no longer being informed by an annual report on admissions from each local authority.
 - The ending of the explicit power to consider arrangements in the context of all the admission arrangements in the area.
 - The end of the requirement to have Admissions Forums.
 - The increased emphasis in the draft code that admission authorities make 'reasonable' arrangements, and less prescription.

Other Issues

22. Other issues around in year co-ordination, random allocation and infant size prejudice are listed in the Appendix 1 with a recommended Council response.
23. There is a new Admission Appeals Code, which the government states will make the system cheaper to administer and less cumbersome. The amendments include an extension of time for parents to appeal from 10 to 30 days, an end to the ban restricting appeals being heard on school premises, and an abolition on the requirement to advertise every 3 years for lay members. The consultation asks whether the Council agrees with the less prescriptive requirements, and whether the new proposed timetable for appeals will give parents more certainty and reduce the number of appeals and reduce costs and bureaucracy for admission authorities.

Recommendation

24. The Education Consultative Forum is requested to consider the draft response and to make comments for inclusion in the response.
25. The Forum comments will be included in the council's response to the government's consultation, along with any additional comments from the Harrow Admissions Forum and any relevant comments from the London Inter-Authority Admissions Group attended by admissions officers from London authorities.

Financial Implications

26. As this is at the consultation phase there are no immediate financial implications arising from this report. If implemented the proposals are likely to have significant financial implications. Creating school places in popular schools without reference to local demand, current capacity and the local place planning strategy risks creating significant excess capacity in other schools. As schools received their budgets based on pupil numbers those schools with high levels of surplus places risk becoming financially unviable. Details of the capital resources needed to finance the expansions has not been confirmed however it is likely to redirect scarce capital resources from other schools. If the proposals contained in the consultation are implemented they would need to be subject to further consideration and approval, with any financial implications highlighted and incorporated into the Council's Medium Term Financial Strategy.
27. There may be some financial efficiency in bringing admissions in to the remit of a single education consultation forum.

Risk Management Implications

28. The approach being adopted to respond to the government's consultation and to invite stakeholder comments for inclusion minimises any risk implications.

Equalities Implications

29. General remarks are made in the body of this report about the potential for disadvantage to arise in an area, though this would be as a result of decisions admissions authorities may make under the changed arrangements. The government's consultation document states that it has considered the implications for disability equality, gender equality and race equality, and that this has shaped the policy proposals. Following this consultation the government will publish a full analysis that reflects the responses received about equity of treatment in admissions; in particular, it will consider carefully any implications around sexual orientation, religion or belief.

Corporate Priorities

30. The approach being adopted to respond to the government's consultation contributes to the Council's vision Working Together: Our Harrow, Our Community and the corporate priorities 'United and involved communities: a Council that listens and leads' and 'Supporting and protecting people who are most in need'.

Section 3 - Statutory Officer Clearance

Name:	Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	13 June 2011		
Name:	Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date:	15 June 2011		

Section 4 - Contact Details and Background Papers

Contact: Chris Melly, Senior Professional, Quality Assurance,
Commissioning and Schools, Children's Services 020 8420 9270
chris.melly@harrow.gov.uk

Background Papers:

Consultation on the Changes to the Admissions Framework.

Draft School Admissions Code.

Draft School Admission Appeals Code.

Consultation Response Form.

All available on the Department for Education website at:

<http://www.education.gov.uk/consultations>

Consultation on the Changes to the Admissions Framework

Review of the School Admissions Code and School Admission Appeals Code

The aims and the key policy changes proposed to the two Codes are reproduced in the tables below, with the consultation questions for each policy change and the draft council response.

<p>General Aims</p> <ul style="list-style-type: none"> • remove all duplication and sections of the Codes that were open to (mis)interpretation • make clearer what admission authorities must and must not do within the new Codes • make them easier to read and understand • reduce the burdens and bureaucracy that schools face • ensure that all school places are offered in a fair and lawful way • ensure that school admission appeals are heard in a fair and lawful way
<p>Question 1: Do you agree that the new Codes achieve these aims?</p> <p>Not sure. The rationalising of the content of the Code is welcome, and it is a shorter and more accessible document.</p> <p>Many of the proposed changes are welcomed and contribute to achieving the general aims. However, there are concerns about some of the proposals that are detailed in the comments below. In particular there is concern about the proposals to give freedom to popular schools to increase their PAN without safeguards to ensure a two tier system does not develop and to ensure value for money.</p>

Key policy changes to the Admissions code

<p>Changes to the Published Admission Number (PAN)</p> <p>All schools (that are their own admission authority) that are popular with parents to be free to increase their PAN:</p> <ul style="list-style-type: none"> • schools will no longer have to get the approval of the local authority; • schools required to notify the local authority of a change to PAN and to make reference to it on the school website; • anyone who feels local proposals to increase PAN are unfair, unlawful or not in compliance with the Code may refer an objection to the Schools Adjudicator; • in respect of an objection in relation to an increase in PAN, there will be a strong presumption in favour of increase unless the increase would lead to a clear threat to pupil safety. <p>DfE would welcome views on what sort of criteria the Schools Adjudicator must take into account when he considers objections to an admission authority's plans to increase PAN.</p>
<p>Question 2: Do you agree with the proposals to allow all popular and successful schools to increase their Published Admission Number?</p> <p>Disagree with this proposal for the following reasons.</p> <p>Currently there is a presumption that expansion of successful schools should be approved, and the existence of surplus capacity in other schools should not be sufficient to prevent expansion.</p>

The government proposes that in respect of an objection to an increase in PAN, there will be a strong presumption in favour of increase unless the increase would lead to a clear threat to pupil safety. In this context, it is of concern that there is no reference to the potential capital implications of increases to PAN nor any requirement to consult the local authority – it cannot be right for circumstances to arise through increases to PAN that may lead to a clear threat to pupil safety.

There should be a requirement to consult the school community, local residents and the local authority, about proposals to increase the PAN, and to take views into account.

Strengthening the presumption in favour of the increase in PAN at successful schools would add to the potential to take children from other schools, and hence add to the danger of a two-tier system of schools arising in an area during a time of reduction in demand for school places.

There may be an issue of inefficient use of resources if additional class(es) are built as a result of these proposals when there is space available at another school(s) locally.

If these concerns were addressed following the consultation, the local authority position could be reconsidered in relation to this proposal.

Proposed criteria for the Schools Adjudicator to take into account include:

- Improvement in educational standards.
- Consistent with the identified local capital investment priorities agreed with responsible bodies in the area. If the government accepts the James Review recommendations, there will be a local capital investment plan drawn up in each local authority area involving all responsible bodies (i.e. those which own and manage facilities) through a process hosted by the local authority.
- Demand for school places in the local area.
- Consideration of the net capacity assessment of the school.
- Value for money in capital terms.
- Outcome of the consultation about the proposal.

Giving admissions priority to children attracting the Pupil Premium

Give a permissive approach to Academies and Free Schools who believe that children attracting the Pupil Premium would thrive in their educational care.

Question 3: Do you agree that Academies and Free Schools should be able to give priority to children attracting the Pupil Premium in their admission arrangements?

Not sure. Why is this proposal not to be made available to community and voluntary aided schools?

The level of the Pupil Premium has been questioned by some commentators - will this proposal have the desired impact if the additional costs exceed the value of the Premium?

Parents would be concerned that local children would not get places if priority was given to children attracting the pupil premium.

The removal of the requirement on local authorities to coordinate in year admissions

A parent, applying for a school place outside of the normal admissions round, would still make initial contact with their local authority for application forms and advise on which schools in their area were over-subscribed. Parents would then apply directly to the schools and those schools would process the forms, notifying the local authority of both the application and the outcome.
--

Question 4: Do you support the proposal to remove the requirement for local authorities to co-ordinate in year applications?

Agree. This appears a sensible proposal that would reduce bureaucracy and should reduce delays for parents seeking in year admission for their child.

In year co-ordination has meant that children are out of school longer as a consequence of the time taken to co-ordinate with other boroughs.

Use of random allocation

Restrict the use of random allocation to only be used as an oversubscription criterion to individual schools.

Question 5: Do you support the proposed change to the use of random allocation?
--

Agree. Harrow has not used random allocation as the principal oversubscription criterion for allocating places at the schools in its area (though Bentley Wood community girls' high school uses random computer selection if there are more applications remaining than places available after places have been allocated using the admissions criteria).
--

Infant class size exceptions

Add two new categories to the list of exceptions:

- | |
|--|
| <ul style="list-style-type: none"> • twins and children from multiple births; • UK service personnel children. |
|--|

Question 6: Do you support proposals to add twins (and multiple births) and children of service personnel to the list of excepted pupils?
--

Agree. Harrow has already consulted and agreed (to be implemented as and when approved as an exception by the government) that if one child can be offered a place in a preferred school, other multiple birth children will be allocated a place in the same school.

The proposal to add UK service personnel children, along with greater clarity about allocating places in advance, should help to address a national issue identified of disadvantage experienced by some service children.
--

The consultation also states "We are also consulting on removing the requirement on admission authorities to take correcting measures to get back to 30 at the end of the year in which the excepted pupils enter the class", though there is not a specific consultation question. This would be welcome if it gives schools more flexibility as to how they manage the class and avoid having to take potentially expensive measures for one or two children.

Clarification is needed as to whether crown servants are service personnel.

Reduction in consultation requirements where no changes to admission arrangements are proposed

Admission authorities should only be required to consult on their admission arrangements once every 7 years if no changes are proposed to their admission arrangements. Any proposed changes must be consulted on before they are determined, other than an increase to the PAN.

Question 7: Do you agree with the proposal that admission authorities who are making no change to their arrangements year on year should only be required to consult once every seven years, rather than once every three years?

Agree, with the exception that there should be consultation about changes to PAN.

Children of school staff

Children of staff at the school to be included as an oversubscription criterion (admission authorities would define what they mean by 'staff').

Question 8: Do you agree with the proposal to allow schools to give priority to applications for children of staff in their over-subscription criteria?

Disagree. There is already provision for this criterion if there is a demonstrable skill shortage. Harrow would agree with this current provision remaining in the revised code.

This would not be popular with parents if places are given to school staff ahead of local parents when there is no skills shortage.

Changes to objections to the Schools Adjudicator

It is proposed to make it possible for anyone to object to the admission arrangements of a state funded school.

Question 9: Do you agree that anyone should be able to raise an objection about the admission arrangements they consider unfair or unlawful, of any school?

Agree. This should serve to strengthen the role of the Schools Adjudicator in a more permissive system of arrangements for admission authorities.

Changes to objections to the Schools Adjudicator

To change the deadline for objections to be referred to the Schools Adjudicator from 31 July to 30 June.

Question 10: Do you agree that the deadline for objections to the Schools Adjudicator should be moved to 30 June from 31 July?

Agree. This should promote resolution of objections without delay because of summer holidays.

Key policy changes to the Appeals code

Operation and governance of appeals panels

Removal of the requirement for all appeals in a multiple appeal for a school to be re-heard if a member of the panel withdraws.

Admission authorities will have to

- hear appeals in appropriate venues (which can include school premises);
- ensure that panel members retain their independence for the duration of their service;
- agree when training is required (all panel members will still have to be trained before serving on the panel).

Question 11: Do you agree with the less prescriptive requirements around the operation, governance and training of appeals panels?

To be drafted.

Timetable for appeals

Admission authorities to give parents at least 30 working days from receiving an offer to prepare and lodge an appeal (currently need only to be given 10 days).

Parents can be requested to provide initial evidence when lodging an appeal.

Admission authorities required to inform parents that any information or evidence not received in advance of the hearing may not be considered at the appeal.

Question 12: Do you agree that the proposed appeals timetable will give more certainty to parents and reduce the number of appeals overall?

To be drafted.

Three stage process

Appeal panels to follow a three stage process (rather than the current two stages):

- the lawfulness and correct application of the arrangements;
- whether prejudice will arise;
- the panel balancing the arguments.

Question 13: Do you agree that the proposed new timetable for lodging and hearing appeals will reduce costs and bureaucracy for admission authorities?

To be drafted.

This page is intentionally left blank

Draft School Admissions Code

For Consultation Only

Department for
Education

The School Admissions Code

<u>Contents:</u>	<u>Page</u>
Statutory basis for the Code	3
Introduction	6
Determining Admission Arrangements	8
Published Admission numbers	
Oversubscription criteria	
Consultation	
Determination	
Applications and Offers	17
Applications	
Co-ordination	
Offering places	
Ensuring fairness and resolving issues	23
The Schools Adjudicator	
Fair Access Protocols	
Appendix – Key legislation	27
Sample Admission Arrangements:	29

The Statutory Basis for the School Admissions Code

1. The School Admissions Code ('the Code') has been issued under section 84 of the School Standards and Framework Act 1998 ('SSFA 1998')¹. The Code has been made following a consultation under section 85(2) of the SSFA 1998 and after being laid before Parliament for forty days.
2. This Code comes into force on [date] and unless otherwise stated, applies with immediate effect. The Code applies to admissions to all maintained schools in England. It should be read alongside the School Admission Appeals Code and other guidance and law that affect admissions and admission appeals in England².
3. This Code imposes mandatory requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of functions relating to admissions by the bodies listed below:
 - a) **Admission authorities of maintained schools** as defined in section 88(1) (a) and (b) of the SSFA 1998³
 - b) **Governing bodies and local authorities (when not admission authorities)**
 - c) **Schools Adjudicators**
 - d) **Admission Appeal Panels.**

These bodies have a statutory duty to act in accordance with the relevant provisions of the Code.

Application of the Code to Academies

4. Academies, by which we mean Academy Schools⁴, Free Schools, University Technical Colleges and Studio Schools, are state-funded, non fee-paying independent schools set up under a Funding Agreement between the Secretary of State and the proprietor of an Academy (most commonly, and hereafter, referred to as an Academy Trust). Academy Funding Agreements require them to comply with the Code and the law relating to admissions, though the Secretary of State has the power to vary this requirement where there is demonstrable need.

¹ Where statutory provisions have been amended, any references to them are references to them as amended.

² Throughout this draft consultation version of the Code, references to regulations are to the current admissions regulations. These will be consolidated and streamlined to bring them into line with the new Code and so these references will be updated in the final version of the Code.

³ For community and voluntary controlled schools the admission authority is usually the local authority, but it may be the governing body if the local authority with the governing body's agreement has delegated responsibility to it for determining admission arrangements. Governing bodies are the admission authorities for foundation schools (including Trust schools) and voluntary aided schools.

⁴ Subject to the Education Bill receiving Royal Assent, Clause 52 introduces three types of Academies: Academy Schools, 16-19 Academies, and Alternative Provision Academies.

Compliance with the Code

5. It is the responsibility of admission authorities to ensure that admission arrangements⁵ are compliant with this Code. Where a school is the admission authority, this responsibility falls to the governing body or Academy Trust.
6. The Code requires local authorities to produce and publish an annual report on School Admissions in their area. Minimum requirements for that report are set out at paragraph 3.20 of this Code and include an assessment of the effectiveness of Fair Access Protocols and co-ordination in their area, how admission arrangements affect the interests of looked after children and the number and percentage of lodged and upheld parental appeals.⁶ The Schools Adjudicator will report annually to the Secretary of State on Fair Access, based on the issues referred throughout the year.
7. Objections to the admission arrangements of both maintained schools and Academies⁷ can be made to the Schools Adjudicator whose decisions are binding and enforceable.
8. The Secretary of State may refer the admission arrangements of any school to the Schools Adjudicator at any time if he considers that they may not comply with the requirements of this Code.
9. The Schools Adjudicator may investigate the admission arrangements of any school that he considers does not or may not comply with the mandatory requirements of this Code or the law.
10. Any decision of the Adjudicator will be binding on the admission authority. It will be for the admission authority to implement those decisions without delay⁸. Where maintained schools fail to implement decisions of the Adjudicator the Secretary of State may direct them to do so under section 496 or 497 of the Education Act 1996. In the case of Academies, the Secretary of State has powers under the funding agreement to direct the Academy to comply with decisions of the Adjudicator.

The table on page 5 sets out the appropriate admission authority for each type of school in England.

⁵ Admission arrangements means the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered.

⁶ Subject to the Education Bill receiving Royal Assent: clause 34 provides that local authorities no longer have to report to the Schools Adjudicator and the requirements for the report will be set out in the Code.

⁷ Subject to the Education Bill receiving Royal Assent: clause 62. Currently objections in relation to Academies are dealt with by the Young People's Learning Agency on behalf of the Secretary of State.

⁸ Subject to the Education Bill receiving Royal Assent: clause 34 removes the power of the Adjudicator to modify admission arrangements of a school.

Type of School	Who is the admission authority?	Who deals with complaints about arrangements?	Who is responsible for arranging/providing for an appeal against refusal of a place at a school?
Academies	Academy Trust	Schools Adjudicator	Academy Trust
Community Schools	Local Authority	Schools Adjudicator	Local Authority
Foundation Schools	Governing body	Schools Adjudicator	Governing body
Voluntary aided schools	Governing body	Schools Adjudicator	Governing body
Voluntary controlled schools	Local Authority	Schools Adjudicator	Local Authority

Introduction

Purpose of this Code

The purpose of the Code is to ensure that all school places for maintained schools (excluding maintained special schools⁹) and Academies are allocated and offered in an open and fair way. The Code has the force of law, and where the words '**must**' or '**must not**' are used, these represent a mandatory requirement.

Admission authorities and local authorities **must** also comply with the regulations and legislation set out in the Appendix.

Overall principles behind setting arrangements

In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.

How admissions work

In summary, the process operates as follows:

- All schools **must** have admission arrangements that clearly set out how children will be admitted, including what criteria will be applied if there are more applications than places at the school. Admission arrangements are determined by admission authorities.
- Admission authorities **must** set ('determine') admission arrangements annually. Where changes are proposed to admission arrangements, the admission authority **must** first publicly consult on those arrangements. If no changes are made to admission arrangements, they **must** be consulted on at least every 7 years. Consultation **must** be for 8 weeks between 1 November and 1 March of the year before those arrangements are to apply. For example: for arrangements which are to apply for applications in 2012 (entry in September 2013), consultation **must** be completed by 1 March 2012. This consultation period allows parents, other schools, religious authorities and the local community to raise any concerns about proposed admission arrangements.
- Once all arrangements have been determined, arrangements can be objected to and referred to the Schools Adjudicator by 30 June. Any decision of the Adjudicator **must** be acted on by the admission authority and their admission arrangements amended accordingly. The local authority will collate and publish all the admission arrangements in the area in a single composite prospectus.

⁹ A maintained special school is a school maintained by the local authority, specially designed to make special educational provision for pupils with special educational needs.

- In the normal admissions round,¹⁰ parents apply to the local authority in which they live for places at their preferred schools. Parents are able to express a preference for at least three schools. The application can include schools outside the local authority where the child lives: a parent can apply for a place for their child at any state-funded school in any area. If a school is undersubscribed, any parent that applies **must** be offered a place. When oversubscribed, a school's admission authority **must** rank applications in order against its published oversubscription criteria and send that list back to the local authority.
- All preferences are collated and parents then receive an offer from the local authority at the highest preference school at which a place is available. For secondary schools, the offer is made on or about 1 March (known as National Offer Day) in the year in which the child will be admitted. For primary schools, offers are sent out on a single day in each local authority area but usually a little after the National Offer Day for secondary schools.
- Parents have the right to appeal against a decision to refuse admission of their child to a school. The admission authority **must** set out the reasons for the decision, that there is a right of appeal and the process for hearing such appeals. The admission authority **must** establish an independent appeals panel to hear the appeal. The panel will decide whether the appeal of the decision should be upheld or a new decision made (the School Admission Appeals Code sets out the requirements relating to appeals).

¹⁰ (i.e. application in October (secondary school) for following year and January (primary school) for same year admission).

Section 1: Determining Admission Arrangements:

1.1 Admission authorities are responsible for admissions and **must** act in accordance with this Code, the School Admission Appeals Code, other laws relating to admissions¹¹, and relevant human rights and equalities legislation.

1.2 **Published Admission Number (PAN)**. As part of their admission arrangements¹², all admission authorities **must** set an admission number for each 'relevant age group' (year group) in which children normally enter the school, set with regard to the net capacity assessment of the school. Admission authorities **must** notify the local authority, local schools and such other persons in the relevant area who appear to the admission authority to have an interest in the admission arrangements of their intention to increase their PAN.

1.3 Anyone who considers that any maintained school or Academy's¹³ admission arrangements are unfair or unlawful or not in compliance with the Code or relevant law relating to admissions can make an objection to the Schools Adjudicator. In respect of an objection in relation to an increase in PAN, there will be a strong presumption in favour of increase unless the increase would lead to a clear threat to pupil safety.

1.4 **Oversubscription criteria** – The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied. All children whose statement of special education needs (SEN)¹⁴ names the school **must** be admitted. If the school is not oversubscribed, all applicants **must** be offered a place.

1.5 All schools **must** have oversubscription criteria for each 'relevant age group'¹⁵, and the highest priority **must** be given to looked after children¹⁶. Oversubscription criteria **must** then be applied to all other applicants in the order set out in the arrangements.

1.6 Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not

¹¹ The main provisions relating to admissions are in Chapter 1 of Part 3 of the SSFA 1998.

¹² See sections 88C and 88D of the SSFA 1998.

¹³ See footnote 7: subject to Royal Assent of Education Bill.

¹⁴ A Statement of Special Educational Need is a legal document issued by the local authority specifying the particular needs and resources for providing education for that child.

¹⁵ This is the age group at which pupils are or will normally be admitted to the school (section 142 SSFA 1998).

¹⁶ 'Looked after children' are children who are in the care of the local authority as defined by section 22 of the Children Act 1989. In relation to school admissions a 'looked after child' is only considered as such if the local authority confirms he or she will be in public care when he or she is admitted to school.

discourage parents from applying for a place for their child. Admission arrangements **must** include an effective, clear and fair tiebreaker to decide between two applications that cannot otherwise be separated.

1.7 It is for admission authorities to formulate their admission arrangements, but they **must not**:

- a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements;
- b) take into account any previous schools attended, unless it is a named feeder school;
- c) give extra priority to children whose parents rank preferred schools in a particular order, including 'first preference first' arrangements;
- d) introduce any new selection by ability;¹⁷
- e) give priority to children on the basis of any practical or financial support parents may give to the school or any associated organisation, including any religious authority;
- f) give priority to children according to the occupational, marital, financial or educational status of parents applying (though children of staff at the school may be prioritised in arrangements¹⁸);
- g) take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement, or that of any other children in the family;
- h) discriminate against or disadvantage disabled children or those with special educational needs;
- i) prioritise children on the basis of their own or parents' past or current hobbies or activities. (Designated faith schools may take account of religious activities, as laid out by the faith provider body/religious authority);
- j) in designated grammar schools that rank all children according to a pre-determined pass mark and then allocate places to those who score highest, give priority to siblings of current or former pupils;
- k) in the case of schools with boarding places, rank children on the basis of a child's suitability for boarding – more information on boarding schools is set out at paragraphs 1.34 - 1.35;
- l) name fee-paying independent schools as feeder schools;

¹⁷ There is a general restriction on selection by ability. Only designated grammar schools or schools with partially selective arrangements which already had such arrangements in place during the 1997-98 school year are permitted to continue to use selection by ability. Grammar schools are designated as such by order made by the Secretary of State under section 104 of the SSFA 1998.

¹⁸ Free Schools and Academies may also, where their funding agreements permit, give priority in admission arrangements to children eligible for Free School Meals (in future, the Pupil Premium). [Further guidance will be produced on this policy area following consultation]

- m) interview children or parents. In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this meeting cannot form part of the decision making process on whether to offer a place. Boarding schools may interview children to assess their suitability for boarding;
- n) request financial contributions (either in the form of voluntary contributions, donations or deposits (even if refundable)) as any part of the admissions process – including for tests;
- o) request photographs of a child for any part of the admissions process, other than as proof of identity when sitting a selection test.

1.8 This Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances, but the most common include:

Siblings at the school

1.9 Admission authorities **must** state clearly in their arrangements what they mean by 'sibling' (i.e. whether this includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address or siblings who are former pupils of the school).

1.10 Some schools give priority to siblings of pupils attending another state funded school with which they have close links (for example schools on the same site, or close links between two single sex schools). Where this is the case, this priority **must** be set out clearly in the arrangements.

Distance from the school

1.11 Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the 'home' address will be determined and the point in the school from which all distances are measured. This should include provision for cases where parents have shared residence of a child following the breakdown of their relationship and the child lives for part of the week with each parent.

Catchment Areas

1.12 Catchment areas **must** be designed so that they are reasonable and clearly defined¹⁹. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school.

Feeder Schools

1.13 Junior and secondary schools may wish to name a primary or infant

¹⁹ R v Greenwich London Borough Council, ex parte John Ball Primary School (1989) 88 LGR 589 [1990] Fam Law 469 held that pupils should not be discriminated against in relation to admission to the school simply because they reside outside the local authority area in which the school is situated. Section 86(8) of the SSFA 1998 places an equal duty on local authorities to comply with parental preference in respect of parents living within and outside their boundary.

school as a feeder school. The selection of a feeder school or schools as part of over subscription criteria **must** be made on reasonable grounds.

Social and medical need

1.14 If admission authorities decide to use this criterion they **must** set out in their arrangements how they will define this need and give clear details about what supporting evidence will be required (e.g. a letter from a doctor or social worker) and then make consistent decisions based on the evidence provided.

Selection by ability or aptitude

1.15 Only designated Grammar schools²⁰ are permitted to select their entire intake on the basis of high academic ability²¹. They **must** publish the entry requirements for a selective place and the process for such selection.

1.16 Partially selective schools select a proportion of their intake by ability. Where schools can partially select, they **must** publish the entry requirements for a selective place, and the process for such selection. They **must** offer places to other children if there are insufficient applicants who have satisfied the published entry requirements for a selective place.

1.17 Partially selective schools **must not** exceed the lowest proportion of selection that has been used since the 1997-98 school year.²²

1.18 Schools that have arrangements to select by aptitude **must not** allow for more than 10% of the total admissions intake to be allocated on the basis of aptitude in any relevant age group (even if the school has more than one specialism). The specialist subjects on which a school may select by aptitude are:

- a) physical education or sport, or one or more sports;
- b) the performing arts, or any one or more of those arts;
- c) the visual arts, or any one or more of those arts;
- d) modern foreign languages, or any such language; and
- e) design and technology, and ICT for schools already selecting in those subjects before the 2008 school year. No other schools may introduce selection in these subjects.

1.19 Where there are insufficient applicants who meet the criteria for the proportion of selective admissions (not including designated grammars) the school **must** allocate those places to other applicants, applying the school's remaining oversubscription criteria.

²⁰ As designated by the Education (Grammar School Designation) Order 1998 (SI 1998/2219). Academies that were designated as Grammar Schools before conversion are permitted to continue selecting their entire intake: section 6(3) of the Academies Act 2010.

²¹ Section 104 of the SSFA 1998.

²² Section 100 of the SSFA 1998.

Banding

1.20 Pupil ability banding is a permitted form of selection²³ used by some admission authorities to ensure that the intake for a school includes a proportionate spread of children of different abilities. Banding can be used to produce an intake that is representative of:

- a) the full range of ability of applicants for the school(s);
- b) the range of ability of children in the local area; or
- c) the national ability range.

1.21 Admission authorities' entry requirements for banding **must** be fair, clear and objective. Banding arrangements which favour high ability children that have been continuously used since the 1997-98 school year may continue, but **must not** be introduced by any other school.

1.22 The admission authority **must** publish the admission requirements and the process for such banding and decisions, including details of any tests that will be used to band children according to ability.

1.23 Where the school is oversubscribed, looked after children **must** be given priority in each band, and then any oversubscription criteria applied within each band. Schools that operate both banding and selection of 10 per cent of pupils with reference to aptitude **must** band pupils first, and then admit 10 per cent of places available on the basis of the relevant aptitude from within the bands. Priority **must not** be given within bands according to the applicant's performance in the test.

1.24 Children with statements of SEN may be included in banding tests and allocated places in the appropriate bands, but, regardless of banding tests, they **must** be allocated a place if their statement names the school.

1.25 Tests for all forms of selection **must** be clear, objective, and give an accurate reflection of the child's ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority as to which test is used, providing that the test is a true test of aptitude or ability.

1.26 Admission authorities **must**:

- ensure that tests for aptitude in a particular subject test only for aptitude in the subject concerned;
- ensure that tests are accessible to children with special educational needs and disabilities, having regard to the reasonable adjustments for disabled pupils required under equalities legislation;
- inform parents of the outcome of selection tests before parents make applications for other schools – while making clear that this does not equate to a guarantee of a selective place.

²³ Section 101 of the SSFA 1998.

1.27 Admission authorities **must not** adjust the score achieved by any child in a test to take account of oversubscription criteria, such as having a sibling at the school.

Random allocation

1.28 Local authorities **must not** use random allocation as the principal oversubscription criterion for allocating places at all the schools in their area for which they are the admission authority. Admission authorities that decide to use random allocation when schools are oversubscribed **must** set out clearly how this will operate, ensuring that arrangements are transparent, and that looked after children are prioritised.

1.29 The random allocation process **must** be supervised by someone independent of the school, and a fresh round of random allocation **must** be used each time a child is to be offered a place from a waiting list.

Faith based oversubscription criteria in schools with a religious character

1.30 As with other maintained schools, faith schools are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available. Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use faith-based oversubscription criteria²⁴ and allocate places by reference to faith where the school is oversubscribed.

1.31 Admission authorities **must** ensure that parents can easily understand how the criteria will be satisfied. While admission authorities for faith schools may give priority to all looked after children whether or not of the faith they **must** give priority to looked after children of the faith before other children of the faith. Where any element of priority is given in relation to children not of the faith they **must** give priority to looked after children not of the faith above other children not of the faith.

1.32 Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the relevant faith provider group or religious authority when constructing faith-based oversubscription criteria, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code. They **must** also consult with the relevant faith provider group or religious authority when deciding how membership or practice of the faith is to be demonstrated. Church of England schools **must**, as required by the Diocesan Boards of Education Measure 1991²⁵, consult with their diocese about proposed admission arrangements before any public consultation.

²⁴ Funding agreements for entirely new Academies (i.e. not converters from the maintained or independent sectors, or those sponsored Academies with a predecessor school) and Free Schools with a religious character provide that where the school is oversubscribed at least 50% of places are to be allocated without reference to faith.

²⁵ 1991 No 2.

Children of staff at the school

1.33 If admission authorities decide to give priority to children of staff, they **must** set out clearly in their admission arrangements how they will define 'staff' and on what basis children of staff will be prioritised.

Maintained boarding schools

1.34 Maintained boarding schools can set separate admission numbers for day places and boarding places. A maintained boarding school can interview applicants to assess suitability for boarding but such interviews **must** only consider whether a child presents a serious health and safety hazard to other boarders or whether they would be able to cope with and benefit from a boarding environment. To help with this assessment, they may also use a supplementary information form, and information provided by the previous school and by the child's home local authority (on safeguarding issues). These processes, and the timeline for them, **must** be clearly set out in the school's admission arrangements.

1.35 Boarding schools **must** give priority in their oversubscription criteria in the following order:

- looked after children;
- children of members of the UK Armed Forces who qualify for Ministry of Defence financial assistance with the cost of boarding school fees;
- children with a 'boarding need', making it clear what they mean by this.

1.36 **Consultation** – When changes are proposed to admission arrangements, all admission authorities **must** consult by 1 March on the full admission arrangements²⁶ (including any supplementary information form) that will apply for admission applications the following academic year. There is no requirement to consult on any increases in PAN. Where those arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities **must** consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period.

1.37 Consultation **must** last for a minimum of 8 weeks between 1 November and 1 March in the determination year.

1.38 Admission authorities **must** consult with (amongst others)²⁷:

- relevant parents;
- other groups with an interest in the local area (for example, community

²⁶ Grammar school arrangements which relate to the retention of permitted selection or removal of selection following a ballot or decision by the governing body (s108 and 109 of the SSFA 1998) are exempt from consultation.

²⁷ As detailed in the School Admissions (Admission Arrangements) (England) Regulations 2008 (2008/3089).

- groups, or Admission Forums where they exist);
- all other admission authorities within the relevant area;
- their local authority;
- neighbouring local authorities;
- the relevant religious authority (in the case of faith schools²⁸).

1.39 For the purposes of consultation the admission authority **must** publish a copy of their proposed admission arrangements on their website, where they have one, and send a copy by email or letter to all of the groups named above, bearing in mind that failing to consult effectively may be grounds for subsequent complaints and appeals.

Determination

1.40 All admission authorities **must** determine admission arrangements by 15 April every year – even if they have not changed from previous years and a consultation has not been required.

1.41 Once admission authorities have determined their admission arrangements, they **must** publish a copy of the determined arrangements on their website, where they have one, displaying them for the whole offer year. They **must** send a copy of their full, determined arrangements to the local authority as soon as possible before 1 May.

1.42 Where an admission authority has determined a published admission number that is higher than in previous years, they **must** notify the local authority that they have done so, and make specific reference to the change on their website.

1.43 Local authorities **must**, by 1 May, publish on their website details of where the determined arrangements for all schools can be viewed, and information on how to refer objections to the Schools Adjudicator.

1.44 Following determination of arrangements, any objections to those arrangements **must** be made to the Schools Adjudicator by **30 June**. Admission authorities that are not the local authority **must** provide all the information that the local authority needs to compile the composite prospectus no later than 8 August, unless agreed otherwise.

1.45 **Composite prospectuses** – Local authorities **must** publish online - with hard copies available for those who do not have access to the internet - a composite prospectus for parents by **12 September** in the offer year (the academic year that offers for places are made), which contains the admissions arrangements for each of the state-funded schools in the local authority area to which parents can apply (i.e. all schools including Academies). They **must** ensure that this information is kept up to date throughout the period in which it is possible for parents to apply for a place for their child, and that it is written in a way that makes it clear and accessible to

²⁸ As specified in regulation 12 of the School Admissions (Admission Arrangements) (England) Regulations 2008 SI 2008/3089.

parents.

Section 2: Applications and Offers

2.1 **Applying for places** – For applications in the normal admission round, local authorities **must** provide a common application form ('CAF') that enables parents to express their preference for a place at any state funded school, with a minimum of 3 preferences in rank order, allowing them to give reasons for their preferences. While parents may express a preference for any state funded school – regardless of whether it is in the local authority area in which they live, admission authorities **must not** give any guarantees that a preference will be met.

2.2 The CAF **must** allow parents to provide their name, their address (including documentary evidence in support), and the name, address and date of birth of the child. The child **must not** be required to complete any part of the form. Local authorities **must** provide advice and assistance to parents when they are deciding which schools to apply for.²⁹

2.3 Regardless of which schools they express preferences for, the form is returned to the local authority in the area that they live (the 'home' authority). The home authority **must** then pass information on applications to other local ('maintaining') authorities about applications to schools in their area. The maintaining authority **must** determine the application in the normal way, and inform the home local authority if a place is available. The offer to parents **must** be made by the home local authority.

2.4 In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary application/information forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They **must not** use supplementary application or information forms that ask for any of the information prohibited by paragraph 1.7 or for:

- a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates);
- b) the first language of parents or the child;
- c) details about parents' or children's disabilities, special educational needs or medical conditions;
- d) parents to agree to support the ethos of the school in a practical way;
- e) both parents to sign the form, or for the child to complete the form.

2.5 Admission authorities may need to ask for proof of address where it is unclear whether a child meets the published oversubscription criteria. In these cases they **must not** ask for any evidence that would include any of the

²⁹ In accordance with section 86 (1A) of the SSFA 1998.

information detailed above. Once a place has been offered, admission authorities may ask for proof of birth date, but **must not** ask for a 'long' birth certificate or other documents which would include information about the child's parents.

2.6 Applying for places at Sixth Form - Children and their parents applying for sixth form places may use the CAF although if they are already on roll they are not required to do so in order to transfer into year 12. Admission authorities can, however, set academic entry criteria for their sixth forms, which **must** be the same for both external and internal places. As with other points of entry to schools, highest priority in oversubscription criteria for sixth form places **must** be given to looked after children. As stated in paragraph 1.7(m), any meetings held to discuss options and courses **must not** form part of the decision process on whether to offer a place.

Offering places

2.7 Admission authorities **must** allocate places on the basis of their published admission arrangements only, and a decision to offer or refuse admission **must not** be made by one individual in an admission authority. Where the school is its own admission authority the whole governing body, or an admissions committee established by the governing body, **must** make such decisions.

2.8 With the exception of designated grammar schools, all maintained schools, including faith schools, that have enough places available **must** offer a place to every child who has applied for one, without condition or the use of any over-subscription criteria.

2.9 Admission authorities **must not** refuse to admit a child solely because:

- a) they have applied later than other applicants;
- b) they are not of the faith of the school in the case of a faith school;
- c) they followed a different curriculum at their previous school;
- d) information has not been received from their previous school; or
- e) they have missed entrance tests for selective places.

2.10 In the normal admissions round, offers of primary and secondary places **must** be sent by the home local authority and schools **must not** contact parents about the outcome of their applications until after these offers have been received (although they can notify parents of the result of selection tests or boarding suitability tests in advance of offers being made or even formal applications being submitted). Admission authorities **must not** provide any guarantees to applicants of the outcome of their application prior to the formal notification of any offers of a place in a suitable school.

2.11 Where a place is available for a child at more than one school, the home local authority **must** ensure, so far as is reasonably practicable, that the

child is offered a place at whichever of these schools is their highest preference. If the local authority is unable to offer a place at one of the parents' preferred schools it **must**, if there are places available, offer a place at another school.

2.12 **Withdrawing a place** – An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is found out that the place was obtained through a fraudulent or intentionally misleading application. Where the parent has not responded to the offer, the admission authority **must** give the parent a further opportunity to respond and explain that the place may be withdrawn if they do not. Where a place is withdrawn on the basis of misleading information, the application **must** be considered afresh, and a right of appeal offered if a place is refused.

2.13 A school **must not** withdraw a place once a child has started at the school, except where that place was fraudulently obtained. In deciding whether to withdraw the place, the length of time that the child had been at the school **must** be taken into account, for example, it might be considered appropriate to withdraw the place if the child has been at the school for less than one term.

2.14 **Waiting lists** – Each admission authority **must** maintain a clear, fair and objective waiting list for at least the first term of the academic year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date either their application was received or their name was added to the list. Looked after children, and those allocated a place at the school in accordance with a Fair Access Protocol, **must** take precedence over those on a waiting list.

2.15 **Infant class size** – Infant classes (those where the majority of children will reach the age of 5, 6 or 7 during the school year) **must not** contain more than 30 pupils with a single school teacher. Additional children may be admitted under very limited exceptional circumstances. These children will remain an 'excepted pupil' for the time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:

- children with statements of special educational needs outside the normal admissions round;
- children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
- children admitted, after initial allocation of places on the local offer date, because of a procedural error made by the admission authority or local authority in the original application process;
- looked after children admitted outside the normal admissions round;

- children admitted after an independent appeal panel upholds an appeal;
- children with SEN who are normally taught in an SEN unit³⁰ attached to the school, who attend some infant classes within the mainstream school;
- children of UK service personnel admitted outside the normal admissions round;
- twins and children from multiple births.

2.16 Admission of children below compulsory school age and deferred entry to school – Admission authorities **must** provide full or part-time places for four year olds in their area, or keep places open for children whose parents have deferred entry up to compulsory school age, setting this out clearly in their arrangements. Places allocated to children whose parents have deferred entry cannot be offered to another child, unless the parent withdraws acceptance of the place.

2.17 Admission of children outside their normal age group – Parents of gifted and talented children, or those who have experienced problems or missed part of a year, for example due to ill health, can seek places outside their normal age group. Admission authorities **must** make decisions on the basis of the circumstances of each case, informing parents of their statutory right to appeal. This right does not apply if they are offered a place in another year group at the school.

2.18 Children of UK service personnel and Crown Servants – For families of service personnel (armed forces), Crown Servants and British Council employees with a confirmed posting to their area, admission authorities **must**:

- allocate a place in advance, if accompanied by an official government letter which declares a relocation date and a Unit postal address or quartering area address for considering the application against their oversubscription criteria. This **must** include accepting a Unit postal address or quartering area address for a service child. Admission authorities **must not** refuse a service child a place because the family does not currently live in the area, or reserve blocks of places for these children;
- ensure that arrangements in their area support the Government's commitment to removing disadvantage for service children. Arrangements **must** be appropriate for the area and be described in the local authority's composite prospectus.

2.19 Children from overseas - admission authorities **must** treat applications for children coming from overseas in accordance with European Union law or

³⁰ An SEN unit forms part of a maintained school and is specially organised to provide education for pupils with SEN.

Home Office rules for non-European Economic Area nationals. Non–statutory guidance on this is available on the website of the Department for Education.

2.20 Co-ordination – Each year all local authorities **must** formulate a scheme by 1 January³¹ to co-ordinate admission arrangements for state funded schools within their area. All admission authorities³² **must** participate in co-ordination and provide the local authority with the information it needs to co-ordinate admissions by the dates agreed within the scheme. Local authorities **must** make applications forms available to parents who wish to apply to a school in a neighbouring area which operates a different age of transfer (e.g. middle schools), and process these as it would in its normal admissions round.

2.21 There is no requirement for local authorities to co-ordinate ‘in year’ applications but they **must**, on request, provide information to a parent about the places still available within its area, and a suitable form for them to use in applying to a school for a place for their child. Any parent can apply for a place for their child at any time to any school.

2.22 Admission authorities **must**, on receipt of an in year application, notify the local authority of both the application, and its outcome, to allow the local authority to keep up to date figures on the availability of places in the area. The admission authority **must** also inform parents of their right to appeal against the refusal of a place.

2.23 Offering a place – Where schools are oversubscribed, admission authorities **must** rank applications in accordance with their published arrangements. The co-ordinated scheme **must** ensure that:

- only one offer is made per child by the local authority;
- for secondary school applications, all offers **must** be made on the same National Offer Day – 1 March or the next working day. There is no national offer day for primary schools; each authority **must** set its own offer date.

2.24 Right to appeal – Parents and children over compulsory school age may appeal against decisions to refuse admission to preferred schools. When a child is refused admission to a school, the admission authority **must** ensure the person who applied for the school place (whether the parent or the child) receives the reasons for that decision and the information about their right to appeal and the requirements for making an appeal.

2.25 School closure - Where a maintained school or Academy is to be

³¹ As set out in the Schools Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2008 (SI 2008/3090).

³² Academies are required under their funding agreements to participate in and comply with requirements in relation to local authority co-ordination of admission arrangements. For the first year of opening only, funding agreements for Free Schools will provide that they may choose whether they wish to participate in the local co-ordination scheme.

closed, the local authority **must** collaborate with other schools in their area to consider the best way to ensure provision for children in other local schools.

Section 3: Ensuring Fairness and Resolving Issues

3.1 **The Schools Adjudicator** – The Schools Adjudicator **must** consider whether admission arrangements referred to him comply with the Code and the law relating to admissions. The admission authority **must** revise their admission arrangements immediately to give effect to the Adjudicator’s decision. An Adjudicator’s determination is binding and enforceable.

3.2 Local authorities **must** use their power to refer an objection to the Schools Adjudicator if they are of the view or suspect that the admission arrangements at schools in their area (for which they are not the admission authority) contravene admissions law and/or the Code.

3.3 Anyone who considers that any maintained school or Academy’s arrangements are unfair or unlawful, or not in compliance with the Code or relevant law relating to admissions, can make an objection to the Schools Adjudicator. Further information on how to make an objection can be obtained from the Office of the Schools Adjudicator:
<http://www.schoolsadjudicator.gov.uk>

3.4 Where the Schools Adjudicator is considering an objection that an increase in PAN is unreasonable, he **must** have regard to the presumption in favour of increase unless he is of the view that the increase would lead to a clear threat to pupil safety.

3.5 **Variations** – once admission arrangements have been determined for a particular academic year, they cannot be revised by the admission authority – unless a misprint needs correcting, or they need to be brought in line with an Adjudicator’s determination or a mandatory requirement of this Code and Part 3 of the SSFA 1998³³. The only other variations permitted to determined admission arrangements are those proposed by the admission authority following a major change of circumstances. These **must** be referred to, and approved by, the Schools Adjudicator.

3.6 Schools that wish to vary their PAN during the admissions year **must** refer their proposal to the Schools Adjudicator for approval³⁴. In making decisions on a proposal to decrease PAN, the presumption is against decreases in PAN unless the admission authority provides sufficient evidence of a sustained decrease in parental demand.

3.7 **Children with challenging behaviour and those who have been excluded twice** – Admission authorities **must not** refuse to admit children in the normal admission round on the basis of their poor behaviour elsewhere. Where a child has been permanently excluded from two or more schools

³³ Section 88K(4)(d) of the SSFA 1998 and the School Admissions (Admission Arrangements) (England) Regulations 2008 (SI 2008/3089) allow for changes to be made in neighbouring schools so that arrangements can be brought in line with a determination in another school.

³⁴ Variations to an Academy’s arrangements **must** be referred to the Secretary of State for agreement.

there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion³⁵. The twice excluded rule does not apply to children who were below compulsory school age at the time of the exclusion, children who have been re-instated following a permanent exclusion and children with SEN statements.

3.8 **Fair Access Protocols** – Each local authority **must** have a Fair Access Protocol, agreed with the majority of schools in its area, which sets out how, outside the normal admissions round, schools in the area will admit their fair share of children with challenging behaviour, children excluded from other schools and children who arrive outside the admissions round who may have difficulty securing a school place. In these circumstances, admission authorities may, if necessary, admit above their PAN. This **must** include how the local authority will use alternative provision to meet the needs of pupils who are not ready for mainstream schooling.

3.9 The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures, even following the outcome of an appeal.

3.10 All admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly and that no school takes more than its share of children with challenging behaviour. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.

3.11 Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it **must** refer the case to the local authority for action under the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. The use of this provision will depend on local circumstances and **must** be described in the local authority's Fair Access Protocol. It will not apply to a looked after child or one with a statement of special needs naming the school in question, as these children **must** be admitted.

3.12 Admission authorities **must not** refuse to admit a child thought to be potentially disruptive, or to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.

3.13 A Fair Access Protocol **must not** require a school automatically to take another child with challenging behaviour in the place of a child excluded from the school.

3.14 The list of children to be included in a Fair Access Protocol is to be agreed with the majority of schools in the area, but **must**, as a minimum,

³⁵ Section 87 of the SSFA 1998.

include the following children of compulsory school age who have difficulty securing a school place:

- Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- Children who have been out of education for two months or more;
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- Children who are homeless;
- Children with unsupportive family backgrounds for whom a place has not been sought;
- Children who are carers; and
- Children with special educational needs, disabilities or medical conditions (but without a statement).

3.15 **Powers of direction** – Local authorities have the power through primary legislation to direct other admission authorities for any maintained school to admit a child, with special provision for a looked after child, to the school best suited to his or her needs³⁶, even when the school is full. Such action **must** be taken in the best interests of the child.

3.16 Before giving a direction, the local authority **must** consult the admission authority for the school they propose to direct, giving reasons for the direction. The admission authority then has seven days to inform the local authority if it is willing to admit the child. If it is not, and the local authority decides to issue the direction, it **must** first inform the admission authority, the governing body (if the governing body is not the admission authority), the head teacher and, if the school is in another local authority area, the maintaining local authority.

3.17 The admission authority, or governing body if the local authority is the admission authority, has a further seven days to refer the case to the Schools Adjudicator, if the child concerned has previously been excluded from two schools and it considers that admission of the child would prejudice the provision of efficient education or efficient use of resources at the school.

3.18 The Schools Adjudicator may either uphold the direction or, if the local authority that looks after the child agrees, determine that another suitable maintained school in England **must** admit the child. The Schools Adjudicator's decision is binding. The Schools Adjudicator may not direct an alternative school to admit a child when the child has already been excluded from that school or when admission would prejudice the provision of efficient education or efficient use of resources.

³⁶ Section 96 and 97A-C of the SSFA 1998.

3.19 Where a local authority considers that a particular Academy will best meet the needs of the child, they can ask them to admit that child even when the Academy is full. A consensus will be reached locally in the large majority of cases, but if the Academy disagrees with the local authority's reasoning and refuses to admit the child, the case can be referred to the Secretary of State. In such cases, the Secretary of State may direct an Academy to admit a looked after child, and can seek advice from the Schools Adjudicator in reaching his decision³⁷. In providing such advice, the Schools Adjudicator will consider the case in the same way as for maintained schools.

3.20 **Local authority reports** – Local authorities **must** produce an annual report on admissions for all the schools in their area for which they co-ordinate admissions, to be published locally by 30 June following the admissions round. The report **must** cover as a minimum:

- (a) information about how admission arrangements in the area of the local authority serve the interests of looked after children, children with disabilities and children with special educational needs and details of where problems have arisen;
- (b) an assessment of the effectiveness of Fair Access Protocols and co-ordination in their area, including how many children were admitted to each school under them;
- (c) the number and percentage of lodged and upheld parental appeals; and
- (d) any arising issues – such as objections to the Schools Adjudicator - affecting admissions for the newly-determined year.

³⁷ Section 25(3A) of the SSFA 1998.

Appendix – Relevant Legislation

This section will describe the main requirements of relevant legislation for school admissions at the time the Code will come into force. This will include reference to amended or new regulations that will accompany the changes to the School Admissions Code and School Admission Appeals Code. .

1. This appendix sets out the primary legislation and Regulations most relevant to admissions decisions. Admission authorities, Schools Adjudicators, appeal panels, local authorities, maintained schools **must** comply with the relevant law as well as acting in accordance with the provisions of this Code. This Code and the School Admission Appeals Code (the Codes) are applied to Academies³⁸ through their Funding Agreements. The information here aims to signpost the relevant law; it does not aim to provide definitive guidance on interpreting the law: that is for the courts.

Equality Act 2010

2. This Act consolidates the law prohibiting discrimination, harassment and victimisation and expands the list of protected characteristics. All schools need to be aware of their obligations and to review their policies and practices to make sure these meet the requirements of the Act, even if they believe that they are already operating in a non-discriminatory way.
3. An admission authority **must** not discriminate on the grounds of disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; or sexual orientation, against a person in the arrangements and decisions it makes as to who is offered admission as a pupil.
4. An admission authority **must** not harass a person who has applied for admission as a pupil, in relation to their disability; race; or sex.
5. An admission authority **must** not victimise a person in relation to a protected act either done, or believed to have been done by that person (e.g. bringing proceedings under the Equality Act 2010) in the arrangements and decisions it makes as to who is offered admission as a pupil.
6. The Act contains limited exceptions to the prohibition of discrimination on grounds of religion or belief and sex. Schools designated by the Secretary of State as having a religious character (faith schools) are exempt from some aspects of the prohibition of discrimination on the grounds of religion or belief and this means they can make a decision about whether or not to admit a child as a pupil on the basis of religion or belief. Single-sex schools are lawfully permitted to discriminate on the grounds of sex in their admission arrangements.

³⁸ 'Academies' means Academy Schools for the purposes of s1 Academies Act 2010 and includes free schools.

7. Admission authorities are also subject to the Public Sector Equality Duty and therefore **must** consider how they can eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations in relation to persons who share a relevant protected characteristic and persons who do not share it.
8. The protected characteristics for these purposes are: disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
9. Further guidance on the Public Sector Equality Duty is available on the website of the Government Equalities Office and from the Equality and Human Rights Commission.

Human Rights Act 1998

9. The Human Rights Act 1998 confers a right of access to education. This right does not extend to securing a place at a particular school. Admission authorities, however, do need to consider parents' reasons for expressing a preference when they make admission decisions, though this may not necessarily result in the allocation of a place. These might include, for example, the parents' rights to ensure that their child's education conforms to their own religious or philosophical convictions (as far as is compatible with the provision of efficient instruction and the avoidance of unreasonable public expenditure).

School Standards and Framework Act 1998

10. Chapter 1 of Part 3 of the School Standards and Framework Act 1998 contains the key provisions regarding schools admissions, including the statutory basis for this Code.
11. Section 86 of the SSFA 1998 provides that the admission authority for a maintained school (with the exceptions of those that select wholly by ability) **must** comply with any preference expressed by a parent except where to do so would prejudice the provision of efficient education or the efficient use of resources.
12. Section 94 of the SSFA 1998 provides that parents (and in some circumstances children) may appeal against admissions decisions. Admission authorities are required to inform parents, through the local authority, of their right of appeal, and also to establish panels to which parents can appeal against decisions to refuse admission to preferred schools. Admission authorities **must** admit a child whose parents have won an appeal.
14. The Codes largely include the provisions relating to schools admissions made in regulations. The key regulations to be aware of are³⁹:

³⁹ Following consultation on the Code, we will be reviewing the admissions regulations to bring them into line with the new provisions and with a view to seeking to streamline and consolidate them. The final list of regulations will be added to the final Code.

Sample admission arrangements - *These example arrangements are provided for illustrative purposes only – they are not “suggested” arrangements and should not be seen as such. Arrangements for individual schools must be set in the context of local circumstances.*

The school has an agreed admission number of 240 pupils for entry in year 7. The school will accordingly admit at least 240 pupils in the relevant age group each year if sufficient applications are received. All applicants will be admitted if 240 or fewer apply.

When the school is oversubscribed, after the admission of pupils with Statements of Special Educational Needs where the school is named in the Statement, priority for admission will be given to those children who meet the criteria set out below, in order:

- (1) Looked after children (“Looked after children” are children who are in the care of the local authority as defined by section 22 of the Children Act 1989. In relation to school admissions a “looked after child” is only considered as such if the local authority confirms he or she will be in public care when he or she is admitted to school.)
- (2) Children with a sibling attending the school at the time of application. Sibling is defined in these arrangements as children who live as brother or sister in the same house, including natural brothers or sisters, adopted siblings, stepbrothers or sisters and foster brothers and sisters.
- (3) Other children by distance from the school, with priority for admission given to children who live nearest to the school as the crow flies. Distances are measured from the main entrance of the child’s home to the main entrance of the school.

Random allocation will be used as a tie-break in category ‘3’ above to decide who has highest priority for admission if the distance between two children’s homes and the school is the same.

This page is intentionally left blank

Draft School Admission Appeals Code

For Consultation Only

The School Admission Appeals Code

<u>Contents:</u>	<u>Page</u>
Statutory basis for the Code	3
Introduction	5
Constitution of Appeal Panels	6
Membership	
Training	
Indemnity	
Costs	
Appeal Hearings	8
Timetable	
Notifying appellants of the right to appeal and the appeal hearing	
Production of evidence from the admission authority prior to the hearing	
Attendance and representation	
The appeal hearing	
The order and nature of the hearing	
Guiding principles for appeal panels	
Reaching a decision	
Notification of the decision	
Notes and records of proceedings	
Reaching Decisions on Appeals	12
Three stage process	
Individual appeals	
Multiple appeals	
Appeals for grammar schools	
Appeals for admission to sixth forms	
Boarding schools	
Waiting lists	
Expressing a preference and Fair Access Protocols	
Children with statements of Special Educational Needs	
Infant Class Size Appeals	18
Considering infant class size prejudice	
Multiple infant class size appeals	
Other appeals and complaints	20
Further Appeals	
Complaints about appeals	
Appeals by governing bodies against local authority decisions to admit twice excluded children	

Statutory basis for the School Admission Appeals Code

1. The School Admission Appeals Code (“the Code”) has been issued under section 84 of the School Standards and Framework Act 1998 (‘SSFA 1998’). The Code has been made following a consultation under section 85(2) of the SSFA 1998 and after being laid before Parliament for forty days.
2. This Code comes into force on [date] and applies to all appeals commencing on or after that date. The Code applies to admissions to all maintained schools in England. It should be read alongside the School Admissions Code and other guidance and law that affect admissions and admission appeals in England. References to ‘the Code’ or ‘this Code’ include this part and the following chapters.
3. The Code imposes mandatory requirements and refers to statutory requirements in relation to the discharge of functions by the bodies listed below. These bodies have a statutory duty to act in accordance with the relevant provisions of the Code:
 - a) **Admission authorities** as defined in section 88(1)(a) and (b) of the SSFA 1998¹
 - b) **Governing bodies and local authorities (when not admission authorities)**
 - c) **Schools Adjudicators**
 - d) **Admission Appeal Panels.**
4. Academies, by which we mean Academy Schools², Free Schools, University Technical Colleges and Studio Schools, are state-funded, non fee-paying independent schools set up under a funding agreement between the Secretary of State and the proprietor of an Academy (most commonly, and hereafter, referred to as an Academy Trust). Under their Funding Agreements, Academies are contractually bound to comply with the Code and the law relating to admissions, though the Secretary of State has the power to vary this requirement where there is demonstrable need.
5. Objections to the admission arrangements of both maintained schools and Academies³ can be made to the Schools Adjudicator whose decisions are binding and enforceable.

¹ For community and voluntary controlled schools the admission authority is usually the local authority, but it may be the governing body if the local authority with the governing body’s agreement has delegated responsibility to it for determining admission arrangements. Governing bodies are the admission authorities for foundation schools (including Trust schools) and voluntary aided schools

² Subject to the Education Bill receiving Royal Assent. Clause 52 introduces three types of Academies.

³ Subject to the Education Bill receiving Royal Assent (Clause 62). Currently objections in relation to Academies are dealt with by the Young People’s Learning Agency on behalf of the Secretary of State.

Type of school	Who is the admission authority?	Who deals with complaints about arrangements?	Who is responsible for arranging/providing for an appeal against refusal of a place at a school?
Academy schools and Free Schools	Academy Trust	Schools Adjudicator <small>*subject to Royal Assent of Education Bill</small>	Academy Trust
Community schools	Local Authority	Schools Adjudicator	Local Authority
Foundation schools	Governing body	Schools Adjudicator	Governing body
Voluntary aided schools ⁴	Governing body	Schools Adjudicator	Governing body
Voluntary controlled schools	Local Authority	Schools Adjudicator	Local Authority

6. Where mandatory requirements are imposed by this Code or by statutory provision it is stated that these bodies **‘must’** comply with the particular requirement or provision. Where this Code or the law prohibits practices, it is stated that the relevant body or bodies **‘must not’** use this practice.
7. The Code deals with two separate categories of admission appeals:
- Appeals by parents, and in certain circumstances by children, against a decision as to the school at which education is to be provided for the child, and
 - Appeals by governing bodies of community or voluntary controlled schools against a decision by the local authority, as their admission authority, to admit to their school a child who has been permanently excluded from two or more schools.
8. Children have the right to appeal against an admission authority’s decision to refuse admission of a child:
- to a school sixth-form; or
 - to a school at which they wish to receive education other than school sixth form education. This applies where the child is above compulsory school age or will have ceased to be of compulsory school age by the time they would have received education at the school.

⁴ Voluntary aided and foundation schools often elect the local authority to be their admission authority.

School Admission Appeals Code – 2011 Revised Code

Introduction

This School Admission Appeals Code (“the Code”) sets out the government’s requirements in relation to appeals against school admission decisions and, in conjunction with the School Admissions Code, reflects its wider policy on school admissions.

School admissions are not run by central government and admission authorities need to have freedom to run the appeals process, subject to minimum requirements designed to ensure fairness and transparency. Our aspiration is that the provision of more good school places and timely and relevant information to parents will reduce the degree of uncertainty parents may feel and the need to appeal.

Appeal panels perform a judicial function and have to be transparent, accessible, independent and impartial, and operate according to principles of natural justice. The requirements set out in the Code are mandatory – admission authorities and appeal panels must comply with them. They must also comply with other relevant law – for example the Equalities Act 2010.

In drawing up this simpler, shorter Code, we are guided by the principle that admission authorities are best placed to decide how to meet those requirements. The Code builds on good practice already employed by many admission authorities. Because local circumstances vary, the Code does not seek to give guidance on every possible situation.

Whilst the Code sets out requirements relating to appeal hearings we would advise all those considering whether to appeal to speak to the local authority or the school in the first instance.

The appeals process for parents who apply at the normal round of admissions usually takes place between April and July. Appeals in respect of in-year admissions will be heard within 30 working days. The detailed timetable of the appeals process will be set by admission authorities and published on their websites.

Section 1: Constitution of Appeal Panels

- 1.1. Admission authorities are responsible for arranging appeals and **must** act in accordance with this Code, the School Admissions Code, other law relating to admissions⁵, and relevant human rights and equalities legislation.

Membership

- 1.2. Admission authorities **must** appoint a clerk to the appeal panel who is independent of the school and the education functions of the local authority. The clerk **must** have knowledge of this Code, the School Admissions Code, other law relating to admissions and other relevant law (see para 1.6), and be able to offer advice to enable the panel to undertake their judicial function.
- 1.3. The clerk, acting on behalf of the admission authority, **must** appoint an independent appeal panel that is comprised of a chair and at least two other panel members, one of whom is a lay person and one with experience in education. Admission authorities **must** ensure that panel members are independent and retain their independence for the duration of their service.
- 1.4. The clerk to the panel **must not** allow any person who is or has been a member of the home local authority or governing body of the school in question, or is or has been employed by the home local authority in a capacity connected with education, or by the governing body or the school in question, to be a member of the appeal panel concerned⁶.
- 1.5. Where a panel starts with three members, and one has to temporarily withdraw (for example because of illness), the panel **must** postpone the remaining hearings until the third panel member returns or the admission authority appoints a third member. Where a member is unable to return for a part-heard hearing the appeal **must** be reheard.

Training

- 1.6. Panel members **must not** take part in hearings until they have received appropriate training. Admission authorities **must** arrange and fund up-to-date training for appeal panel members on any aspect felt to be relevant to the functioning of the panel, but as a minimum, this **must** include the law relating to admissions; their duties under the Human Rights Act 1998 and Equality Act 2010; procedural fairness and natural justice; diversity awareness; and the roles of particular panel members (for example, chairing skills).

Indemnity

- 1.7. Admission authorities **must** indemnify the members of any appeal panel against any reasonable legal costs and expenses they incur in connection with any decision or action taken in good faith whilst acting as members of the appeal panel.

⁵ The main provisions relating to admissions are in chapter 1 of Part 3 of the School Standards and Framework Act 1998.

⁶ For Academies, the governing body of a school should be read as the Academy Trust.

Costs

- 1.8. Local authorities **must** allocate reasonable funds to governing bodies of maintained schools which are admission authorities to meet admission appeals costs, including training for panel members, unless the school and local authority agree that the local authority will carry out the administration on the governing body's behalf⁷.
- 1.9. Panel members are eligible to receive travel and subsistence allowances and they can also be compensated for any loss of earnings or any individual expenses, including child minding costs, that are necessarily incurred as a result of attending an appeal panel or associated training⁸. The payment is set by the local authority which **must** have regard to the recommendations of its independent remuneration panel⁹.

⁷ Academies receive funding directly from central government, but would be expected to pay expenses at the rate set by the relevant local authority.

⁸ In accordance with the application of s173 and s174 of the Local Government Act 1972 as provided for by the Education (Admission Appeals Arrangements) (England) Regulations 2008 (SI 2008/2899)(to be amended).

⁹ As provided for in the Local Authorities (Members Allowances) Regulations 2003 (SI 2003/1021).

Section 2: Appeal Hearings

Timetable

- 2.1 Admission authorities **must** set a reasonable timetable for organising and hearing appeals that **must** include deadlines for lodging appeals; for giving notice to parents of appeal hearings; for requesting evidence and other information from parents; for admission authorities to send evidence to the clerk; for the clerk to send appeal papers to the panel and parties; and for sending out decision letters. All admission authorities **must** publish such an appeals timetable on their websites by 28 February each year.
- 2.2 Admission authorities **must** send parents any information needed to help them prepare their case for appeal and **must not** limit the grounds on which appeals can be made.
- 2.3 Admission authorities **must** ensure appeals are heard within the following timescales:
- For applications to primary and secondary schools made in the normal round of admissions, appeals **must** be heard within 40 working days from the deadline for lodging appeals.
 - For late applications made for primary and secondary schools in the normal round of admissions, appeals **must** be heard within 40 working days from the deadline for lodging appeals, where possible, or by the end of the summer term.
 - For applications to sixth forms, appeals **must** be heard within 30 working days from the confirmation of the GCSE results that the offer depends on. Appeals lodged after the beginning of the autumn school term **must** be treated as appeals for in-year admissions.
 - For applications for in-year admissions (for applications received outside the normal round of admissions), appeals **must** be heard within 30 working days of the appeal being lodged.

Notifying appellants of the right to appeal and the appeal hearing

- 2.4 Admission authorities **must** allow appellants at least 30 working days from the date of notification that their application was unsuccessful, to prepare and submit their written appeal. Admission authorities **must** organise the hearing of appeals submitted after their specified deadline, but can do that to a timescale set by them. When a local authority or an admission authority sends a decision on the allocation of a school place, it **must** include the reason why admission was refused; the right to appeal; the deadline for lodging an appeal and the contact details for the authority. Parents **must** be informed that they need to set out their grounds for appeal in writing and requested to submit any initial supporting evidence or other information that they want to be considered at the hearing if they wish to appeal.
- 2.5 Admission authorities **must**, no later than 15 working days before the hearing, notify appellants of the details of, and arrangements for, the hearing. This includes requesting that the appellant submits any further evidence or information that was not sent with the initial appeal by a specified date. Admission authorities **must** ask appellants whether they intend to call any witness evidence or be represented at the hearing and inform them that any information or evidence not received in advance of the hearing may not be considered at the appeal.

- 2.6 Admission authorities **must** explain to the appellant that where an appellant fails, or is unable, to attend and it is also impractical to offer an alternative date, the appeal will go ahead and be decided on the written information submitted.

Production of evidence from the admission authority prior to the hearing

- 2.7 In accordance with timetable specified, the admission authority **must** supply the clerk to the appeal panel with all relevant documents needed to conduct the hearing in a fair and transparent manner, including details of how the admission arrangements and the co-ordinated admissions scheme apply to the appellant's application, factual information, the reasons for the decision and an explanation as to how admission of an additional child would cause prejudice to the provision of efficient education or use of resources.
- 2.8 The clerk **must** send all the papers required for the hearing, including the names of the panel members, to both parties and members of the panel, a reasonable time before the date of the hearing. This will allow opportunity for any objections regarding impartiality to be notified to the clerk. An appeal panel **must** decide whether any material not submitted in advance is to be considered by taking into account its significance and the effect of a possible need to adjourn the hearing.

Attendance and representation

- 2.9 The admission authority **must** provide a presenting officer who is responsible for presenting their decision not to admit the child, and is prepared to answer detailed questions about the case being heard and the school. If no presenting officer is available, the panel can decide to resolve the case by using the evidence submitted by the admission authority if it is satisfied that to do so will not cause prejudice to the appellant.
- 2.10 Appeal panels **must** allow appellants the opportunity to appear in person and make oral representations. Appellants may be represented, or accompanied by a friend. Although not usually necessary, witness evidence is permitted where the appeal panel thinks it is appropriate. Appeal panels **must** comply with their duties under the Equality Act 2010 when considering an appellant's attendance and representation at the appeal.
- 2.11 Panels **must not** allow representatives of schools to support individual appeals for places at their school at the hearing itself, or by providing letters of support for appellants, because of possible conflicts of interest and the possibility of unfairness to other appellants.

The appeal hearing

- 2.12 Admission authorities **must** take all reasonable steps to ensure the venue is appropriate, accessible to appellants, and has a suitable area for appellants and presenting officers to wait separately from the panel before and between appeals.

- 2.13 Admission authorities **must** ensure that appeal hearings are held in private¹⁰, and are conducted in the presence of all panel members and parties in attendance. Where both parties are in attendance, one party **must not** be left alone with the panel in the absence of the other. Where one party has not attended the clerk **must** remain with the panel at all times.

The order and nature of the hearing

- 2.14 It is part of the clerk's role to notify all parties of the order of proceedings in advance of the hearing. The appeal panel **must** ensure that there is good time for all parties to make their case and to be questioned on any detail in that case. There **must** also be good time for any summing up by all parties. Once all parties have concluded their evidence, the panel **must** withdraw to reach a decision as to whether to uphold or reject the appeal.

Guiding principles for appeal panels

- 2.15 Appeal panels **must** operate according to the principles of natural justice. Those most directly relevant to appeals are:
- members of the panel **must not** have a vested interest in the outcome, or any involvement in an earlier stage, of the proceedings;
 - each side **must** be given the opportunity to state their case without unreasonable interruption; and
 - written material and evidence **must** have been seen by all the parties.

Reaching a decision

- 2.16 Section 3 of this Code provides guidance on decisions, but appeal panels **must** either uphold or reject an appeal and **must not** uphold an appeal subject to any specified conditions. Under section 94(6) of the SSFA 1998, a panel's decision that a child shall be admitted to a school is binding on the admission authority concerned.
- 2.17 Panels **must** ensure that decisions on appeals where there is not unanimous agreement are reached by a simple majority of votes cast. Where there are equal numbers of votes the panel chair has a second or casting vote.

Notification of the decision

- 2.18 The panel **must** communicate the decision of each appeal, including the reasons for that decision, in writing to the appellant and admission authority. The clerk **must** sign the decision letter and send it to the parties as soon as possible after the hearing but not later than five working days, unless there is good reason. When notifying appellants of a successful appeal outside the normal admissions round, the letter **must** also include a date on which the child can start at the school.
- 2.19 The panel **must** ensure that the decision is easily comprehensible so that the parties can understand the basis on which the decision was made and why they did or did not succeed. The decision letter **must** contain a summary of relevant factors that were raised by the parties and considered by the panel along with a summary of any legal

¹⁰ except in the first stage of grouped multiple appeals (see paragraph 3.9).

advise the panel sought. It **must** also give clear and detailed reasons for the panel's decision, including how, and why, any issues of fact or law were decided by the panel during the hearing.

Notes and records of proceedings

- 2.20 The clerk **must** ensure a complete and accurate record is taken of the points raised at the hearing, including the proceedings, attendance, voting and reasons for decisions.
- 2.21 These notes and records of proceedings are the property of the appeal panel and **must** be kept securely by the admission authority for a minimum of two years. Such notes and records of the proceedings are not subject to the Freedom of Information Act 2000. Admission authorities may wish to obtain legal advice where a request has been made under the Data Protection Act 1998 for access to personal data contained in the records of proceedings.

Section 3: Reaching Decisions on Appeals

Three stage process

- 3.1 Panels **must** follow different processes depending on the type of school that is the subject of the appeal, for example, primary, secondary, grammar or sixth form, and whether it is an individual or multiple appeal. These are set out below (infant class appeals are in section 4).

Individual appeals

First stage

- 3.2 The panel **must** consider:
- i. whether the admission authority's admission arrangements (including the area's co-ordinated admission arrangements) comply with the mandatory requirements of the School Admissions Code and Part 3 of the SSFA 1998; and
 - ii. whether the admission arrangements were correctly and impartially applied in the individual's case. The panel **must not** make its own decision on the matter but consider whether or not there was an error in the way in which the original decision was reached.
- 3.3 If the panel considers that the admission arrangements are in compliance, and that they were correctly and impartially applied to the decision in question, it **must** proceed to the second stage. If the panel finds that the arrangements contravene admissions law or had not been correctly and impartially applied to the child concerned, it **must** go on to consider whether the child would have been offered a place if the arrangements had not been in contravention, or had been correctly and impartially applied. If the panel find that a child would have been offered a place it **must** uphold the appeal at this stage.
- 3.4 If the panel find that the child would not have been offered a place the panel **must** go on the second stage. In all cases, the panel **must** refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements that they identify as unlawful.

Second stage

- 3.5 The panel **must** decide whether the admission of the child in question would prejudice the provision of efficient education or the efficient use of resources at the school. Whilst the panel **must** take into account the school's published admission number, the admission authority **must** be able to demonstrate prejudice over and above the fact that the published admission number has already been reached¹¹. The panel **must not** reassess the capacity of the school, but **must** consider the impact on the school of admitting additional children. In reaching a decision as to whether or not there would be prejudice the panel may consider the following factors:
- what effect an additional admission would have on later year groups;

¹¹ The published admission number is set with regard to the indicated admission number derived from the net capacity assessment for the school. The net capacity is designed to encompass the wide variety of teaching styles and room layouts that are found in schools across the country, but allows admission authorities and local authorities some flexibility to set an admission number that suits the needs of the school.

- whether any changes have been made to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
 - the impact of the locally agreed Fair Access Protocol¹²;
 - the impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.
- 3.6 If the panel is satisfied at this stage that there would be prejudice, it **must** go on to the third stage. If no prejudice is found, the panel **must** allow the appeal.

Third stage

- 3.7 The panel **must** exercise its judgement, balancing the degree of prejudice to the school against the appellant's case for the child being admitted to the school, before arriving at a decision. If the panel considers that the appellant's grounds for the child to be admitted outweigh the prejudice to the school identified at the second stage, it **must** uphold that appeal. The panel **must** take into account the appellant's reasons for expressing a preference for the particular school, including what that school can offer the child that the allocated or other schools cannot.

Multiple appeals

- 3.8 Multiple appeals are when a number of appeals have been received in relation to the same school. Admission authorities **must** take all reasonable steps to ensure that multiple appeals for a school are heard by one panel with the same members. Where more than one panel has to consider appeals for the same school, each panel **must** make its own decision independently.
- 3.9 Admission authorities may hear multiple appeals as either individual or grouped appeals. Grouped multiple appeals are more efficient, especially where there are a large number of appellants. Grouped multiple appeals are where the presenting officer's case is heard in the presence of all the appellants, including any representatives who may put questions to the presenting officer, at the first stage of the appeal. The second stage is heard individually without the presence of other appellants. In all, there are three stages which are set out below.

First stage

- 3.10 Firstly, the panel **must** consider whether the admission authority's admission arrangements (including the area's co-ordinated admission arrangements) comply with the mandatory requirements of the School Admissions Code and Part 3 of the SSFA 1998. As with individual appeals, the panel **must** refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements that it identifies as unlawful.
- 3.11 Secondly, the panel **must** decide how many children could be admitted, if any, without prejudice to the school. If the panel decides that all the children who are the subject of the appeals could be admitted to the school without prejudice, it **must** uphold all appeals. If the admission authority is able to satisfy the appeal panel that there would

¹² See Paragraphs 3.8 to 3.14 of the School Admissions Code for requirements in relation to Fair Access Protocols.

be prejudice if all or some of the appeals are upheld, the panel **must** move to the second stage, where it **must** hear the appeals individually without the presence of other appellants.

Second stage

- 3.12 The panel **must** consider whether the admission arrangements of the school were correctly and impartially applied to the child concerned. Where the panel finds either that arrangements were not correctly and impartially applied or were unlawful, it **must** consider whether each child would have been offered a place if the admission arrangements had been either correctly and impartially applied or were lawful. The panel **must** hear each individual appellant's grounds for admission including reasons as to why admission of their child should outweigh any prejudice to the school in question. With the exception of a decision to uphold all appeals under 3.11 above, panels **must not** decide to uphold an appeal on individual cases until all appellants' cases have been heard.

Third stage

- 3.13 The panel **must** withdraw to come to a decision. If the number of children who would have been admitted to the school if either the admission arrangements had been lawful or correctly and impartially applied is the same or fewer than the number the panel decided could be admitted to the school without prejudice, the panel **must** uphold the appeals concerning those children. For the remaining appellants, the panel **must** consider whether their grounds for admission to the school outweigh the prejudice to the school.
- 3.14 If there are several cases which outweigh the prejudice to the school and merit admission, but the panel determines that the school could not cope with that number of successful appeals, it **must** compare all the remaining cases and decide which of them to uphold, if any.
- 3.15 Where the number of children who would have been admitted to the school if the admission arrangements had been either lawful or correctly and impartially applied is greater than the number the panel decided could be admitted to the school without prejudice, the panel **must** consider whether the grounds for admission to the school outweigh prejudice to the school for all the appellants.
- 3.16 Where there are several cases which outweigh the prejudice to the school and merit admission, but the panel determines that the school could not cope with that number of successful appeals, it **must** compare all the remaining cases and decide which of them to uphold, if any. In doing so, the panel may have regard to whether a child would have been admitted if the arrangements had been either lawful or correctly and impartially applied.
- 3.17 Individual multiple appeals are where the presenting officer presents the case at the first stage, followed immediately by the individual appellant's case. Such arrangements involve repetition of the first stage and are therefore only suitable where there are small numbers of appeals. In such appeals the panel **must** ensure that the presenting officer does not produce new evidence or expand on the case in subsequent appeals, as appellants whose cases were heard earlier in the process will not have had an

opportunity to consider and respond to that new evidence. However, if material new evidence comes to light during the questioning of the presenting officer, the clerk **must** ensure that the panel considers what bearing that evidence may have on all previous and subsequent appeals.

Appeals for grammar schools

- 3.18 Designated grammar schools are permitted to select children for admission on the basis of academic ability and may leave places unfilled if there are insufficient eligible applicants¹³. Some admission authorities for grammar schools offer places to those who score highest, others set a pass mark and then apply oversubscription criteria to those applicants that reach the required standard. In the case of applicants who have been refused admission to a particular grammar school because there are more eligible children than places available and the oversubscription criteria has been applied a panel **must** follow the process outlined at paragraphs 3.2 to 3.7 for individual appeals and 3.8 to 3.17 for multiple appeals.
- 3.19 An appeal panel may be asked to consider an appeal where the appellant believes that the child did not perform at their best on the day of the entrance test. In such cases:
- a) Where a local review process has not been applied, the panel **must** only uphold the appeal if it is satisfied:
- that there is evidence to demonstrate that the child is of the required academic standards, for example, school reports giving Year 5/Year 6 SAT results or a letter of support from their current or previous school clearly indicating why the child is considered to be of grammar school ability; and
 - where applicable, that the appellant's arguments outweigh the admission authority's case that admission of additional children would cause prejudice.
- b) Where a local review process has been followed, the panel **must** only consider whether each child's review was carried out in a fair, consistent and objective way and if there is no evidence that this has been done, the panel **must** follow the process in paragraph 3.19 a).
- 3.20 In either case the panel **must not** devise its own methods to assess suitability for a grammar school place unrelated to the evidence provided for the hearing.
- 3.21 If a panel has to consider an appeal for an in-year applicant where no assessment has taken place, it **must** follow the process in paragraph 3.19 a).

Appeals for admission to sixth forms

- 3.22 Where applicants have been refused admission to a particular school because there are more eligible children than places available and over-subscription criteria have been applied, appeal panels **must** follow the three stage process at paragraphs 3.2 to 3.7 for individual appeals and 3.8 to 3.17 for multiple appeals.
- 3.23 In the case of an appeal where the child did not reach the specified entry requirements, the panel **must not** attempt to make its own assessment of a child's

¹³ Section 86(3)(c) of the SSFA 1998.

ability, but may need to decide whether the original decision that the child was not of the required standard was reasonable in light of the information before the decision-maker. In doing so, it may want to consider whether any process in place to consider such cases (for example, where a pupil had not been studying in England and did not have GCSEs) was carried out in a consistent and objective way.

- 3.24 Where a child is refused admission to a sixth form, they and their parents have the same right of appeal and where they appeal separately admission authorities **must** arrange the appeals so that they are heard together. For in-year applications made by both children and their parents, panels **must** hear appeals together where possible unless they are for different admission authorities.

Boarding schools

- 3.25 Panels **must** follow the three stage process at paragraphs 3.2 to 3.7 for individual appeals and 3.8 to 3.17 for multiple appeals against decisions for places at boarding schools. In considering whether prejudice would arise if further children were admitted to a boarding school, the panel **must** consider the effect of admitting additional day pupils on the number of boarding places which are available, for example, if the resultant effect on class size means that the number of boarding places available overall would have to be reduced. It is up to the admission authority to provide evidence that this would be the case.

Waiting lists

- 3.26 The School Admissions Code requires admission authorities to maintain waiting lists for oversubscribed schools. Appeal panels **must not** take account of where the admission authority has placed a child on the waiting list, or of the fact that appeals have not been made in respect of other children on the waiting list. Appeal panels **must not** determine where a child should be placed on that list.

Expressing a preference and Fair Access Protocols

- 3.27 The School Admissions Code requires local authorities to have a Fair Access Protocol which sets out how, outside the normal admissions round, schools in the area will admit their fair share of children with challenging behaviour, children excluded from other schools and children who arrive outside the admissions round who may have difficulty securing a school place. The allocation of a place under such a protocol does not override a parent's right to appeal. If an application has been refused, despite there being places available, the governing body **must** present their case for refusal, demonstrating how admission of the child would cause prejudice to the school – this may be the case for a school with a high proportion of children with challenging behaviour which refuses an in-year admission to a child with challenging behaviour.

Children with statements of Special Educational Needs

- 3.28 If the parent of a child with a statement of Special Educational Needs wishes to appeal against the school named in the statement, or the fact that no school has been named, such appeals are considered by a Special Educational Needs and Disability Tribunal,

not a school admission appeal panel¹⁴.

DRAFT

¹⁴ Section 326 of the Education Act 1996.

Section 4: Infant Class Size Appeals

- 4.1 Regulations made under Section 1 of the School Standards and Framework Act 1998 limit the size of an infant class (for example, a class in which the majority of children will reach the age of 5, 6 or 7 during the school year) to 30 pupils with a single school teacher. Only in very limited circumstances can admission over the limit be permitted¹⁵.
- 4.2 Where a child has been refused admission to a school on the grounds of infant class size prejudice (see paragraph 4.4), an appeal panel may determine that a place is to be offered to the child by the admission authority only where it is satisfied that:
- the child would have been offered a place if the admission arrangements had been properly implemented;
 - the child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admissions Code and the SSFA 1998; or
 - the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.
- 4.3 In reaching its decision, the panel **must** take into account all relevant circumstances including:
- the published admission arrangements, including the area's co-ordinated admissions scheme where applied;
 - the parent's preference;
 - the circumstances of the particular child and family; and
 - the practical consequences for the school and the children in relevant infant classes if any or all of the appeals being heard were to be successful.
- 4.4 Accordingly, panels **must** follow the process below in considering appeals under infant class size prejudice grounds¹⁶.
- i. The panel **must** consider the lawfulness of the admission arrangements (including the area's co-ordinated admission arrangements) and whether they have been correctly and impartially applied. The panel **must** immediately refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements it identifies as unlawful.
 - ii. Under these grounds, the panel can only uphold the review in cases where it is clear that the child would have been offered a place if the admission arrangements had been properly applied or were not contrary to mandatory provisions in the School Admissions Code and the SSFA 1998. The panel should allow fresh material to be submitted by the parents in order to

¹⁵ See paragraph 2.15 of the School Admissions Code.

¹⁶ The procedure for determining infant class size appeals has been considered by the Court of Appeal and High Court in a number of cases: *R v London Borough of Richmond ex parte JC* [2001] ELR 21, CA; *The School Admission Appeals Panel for the London Borough of Hounslow v The Mayor and Burgesses of the London Borough of Hounslow* [2002] EWCA Civ 900; *R (on the application of South Gloucestershire Local Education Authority) v South Gloucestershire Schools Appeal Panel* [2001] EWHC Admin 732; and *R (K and S) v Admissions Appeal Panel of Cardiff County Council and Cardiff County Council* [2003] EWHC 436 (Admin).

establish the factual basis for their claim that the arrangements had not been properly implemented or had been contrary to mandatory provisions in the School Admissions Code and the SSFA 1998.

- iii. Unless the appeal has already been upheld, the appeal panel **must** go on to consider whether the admission authority's decision was one which a reasonable admission authority would have made in the circumstances of the case.
- iv. The panel should review the admission authority's decision in the light of the material available at the time when it made its decision. Exceptionally, a panel may also consider material which would have been available to the admission authority if it had acted properly. The panel may also consider evidence submitted by the parents to show what their circumstances were at the time the decision was made in order to support their claim that no reasonable admission authority would have made that decision.
- v. If the panel finds that the admission authority's decision was not one which a reasonable admission authority would have made in the circumstances of the case, then it should uphold the review.

Considering infant class size prejudice

- 4.5 Applications for admission may have been refused because places had been allocated up to the published admission number, but this does not necessarily mean that admitting another child would breach the infant class size limit. The panel **must** consider whether infant class size prejudice would be caused by the evidence provided that further admission would be detrimental to the efficient provision of education or efficient use of resources.
- 4.6 The panel **must** also consider whether admission of an additional child would cause future infant class size prejudice. Schools are responsible for organising their classes and can choose to split or merge classes to ensure appropriate teaching and learning. In such cases, panels **must** ensure that future infant class prejudice will not be caused for schools that have admitted children up to their published admission number in reception but plan to merge infant classes in Year 1 or 2. For example, a school publishes an admission number of 60, admitting 20 children to three reception classes, which become two classes of 30 children in Years 1 and 2. Admission of a 61st child to reception would lead to one of the Year 1 classes exceeding the infant class size limit unless the school takes remedial measures, such as recruiting an additional teacher.

Multiple infant class size appeals

- 4.7 Appeal panels may hear multiple infant class reviews for the same school in groups, where the presenting officer's case is heard in the presence of the appellants, including any representatives, who may question the case. If the panel is satisfied that there is infant class size prejudice, it **must** proceed to consider the appeals of the individual appellants (as in paragraphs 4.3 and 4.4) without the presence of the others. If infant class size prejudice is not proven, the panel **must** decide which children should be admitted before infant class size prejudice arises, and then consider all remaining appeals as infant class size prejudice cases. Panels **must not** make decisions until all the appeals have been heard.

Section 5: Other appeals and complaints

Further Appeals

- 5.1 Appellants do not generally have the right to a second appeal in respect of the same school for the same academic year. However a second appeal may be held where:
- i. it is requested by the Local Government Ombudsman for a maintained school, by the Secretary of State for an Academy, or when the admission authority accepted there were faults in the first appeal which may have significantly altered the outcome; or
 - ii. the admission authority has accepted a further application because of a significant and material change in the circumstances of the parent, child or school but still refused admission.
- 5.2 A second appeal panel **must** be made up of different members to the first.

Complaints about appeals

- 5.3 Admission authorities **must** inform parents about the arrangements for making a complaint about maladministration on the part of the panel hearing appeals. For a maintained school such a complaint should be made to the Local Government Ombudsman¹⁷.

Appeals by governing bodies against local authority decisions to admit twice excluded children

Notice of appeal

- 5.4 When a local authority takes a decision that a twice excluded child is to be admitted to a community or voluntary controlled school, it **must** give the governing body of the school notice in writing of that decision and of their right to appeal¹⁸. The local authority **must** comply with the principles of this Code when organising such appeals.
- 5.5 The governing body **must** make any appeal against such a decision in writing within 15 working days after the day it is given notice, and **must** give the grounds on which the appeal is being made. Local authorities are not, however, required to make these arrangements where their decisions are in the form of directions made under section 96 of the SSFA 1998, which empowers the local authority, in prescribed circumstances, to direct a foundation or voluntary aided school to admit a particular child.

Appeal panels

- 5.6 The appeal panel **must** be constituted in the same way as one hearing an appeal by a parent or a child against an admission authority's decision not to admit. The hearing

¹⁷ For Academies this would be the Secretary of State.

¹⁸ The requirements for appeals of this type are set out in Schedule 2, paragraph 2 of the Appeals Regulations 2002/2899.

must be on a date determined by the local authority, within 15 working days from the appeal being lodged. A panel **must not** include a member who has been involved in any way in previous considerations of whether the child should be reinstated at any school from which he or she has been permanently excluded or in any previous appeal relating to the child under section 85(2) of the SSFA 1998.

The appeals procedure

- 5.7 The appeal panel **must** ensure that appeals are heard in private and allow:
- the local authority and the governing body to make written representations;
 - a representative of the local authority and a governor nominated by the governing body, to appear and make oral representations.
- 5.8 In considering the appeal, the panel **must** consider:
- the reasons for the local authority's decision to admit the child; and
 - any reasons put forward by the governing body as to why it does not want to admit the child.
- 5.9 If the members of the panel disagree, the panel **must** decide the appeal by a simple majority vote. If the votes are equally divided, the panel chair has a second or casting vote. The decision reached is binding and the school and local authority **must** comply with it.
- 5.10 The clerk **must** communicate in writing the decision of an appeal panel, and the reasons for it, to the local authority, governing body and parents concerned, by the end of the second school day after the conclusion of the appeal hearing. The decision may also be confirmed to the parents by telephone by at least the next school day after the hearing.¹⁹

¹⁹ Where a local authority wishes an Academy to admit a particular child against the wishes of the Academy the case should be referred to the Secretary of State, who has the power to direct admission.

This page is intentionally left blank