A Introduction

Background and purpose

1. The school admissions framework is intended to ensure that the school admissions system is fair to all children regardless of race, ethnicity, gender or ability. This document considers the implications for disability equality, gender equality and race equality of revisions made to the School Admissions Code and associated legislation.

2. Securing a school place for their child is one of the most important things that parents do. The application and allocation process for school places is complex. Each year, many parents apply for places in different schools, stating different levels of preference. Local authorities are required to co-ordinate this activity so that each parent receives an offer of one primary or secondary school place. The Government is committed to ensuring that the process is as straightforward as possible and that it is fair to all children and their parents.

3. The admissions framework is set out in the School Standards and Framework Act 1998 (the Act) and the statutory School Admissions Code and School Admission Appeals Code. These already do much to ensure fair access to educational opportunity for all children. For example, the Admissions Code prohibits admission authorities from using admission arrangements which directly or indirectly disadvantage children from any particular social or racial group or those with disabilities or special educational needs. It requires local authorities to provide a Choice Advice service to those parents who are most in need of support during the secondary school admissions process, particularly those from disadvantaged groups. And it expects school governing bodies to ensure that their other policies and procedures, for example their school uniform policy, do not discourage certain groups of parents from applying.

4. However, more needs to be done to ensure that children and families are at the centre of the system and that all admission authorities comply with the law and the Code. Early in 2008, officials from the Department for Children, Schools and Families examined the admission arrangements of all schools in a small sample of local authorities and concluded that a significant minority of them had admission arrangements which did not comply with at least one aspect of the Code or law. During the summer of 2008, the Schools Adjudicator conducted a review of the admission arrangements of a large sample of admission authorities across all 150 local authorities. The review identified a large number of issues that needed attention. The Adjudicator followed up these issues to ensure they were dealt with.

5. In the Children’s Plan, published in December 2007, the Government made the commitment to consult on improvements to the school admissions process. Consultation on a draft revised School Admissions Code, School Admissions Appeals Code and associated regulations ran from 12th June to 2nd October 2008. In addition, some amendments were made to the Act by the Education and Skills Act 2008. It is the impact of the new Codes and
regulations and the amendments to primary legislation that this Equality Impact Assessment considers.

Description of policy

6. The revised Codes and associated regulations include a range of measures which are intended to make the school admissions system easier for parents to negotiate and ensure that all admission arrangements are fair. The paragraphs below describe some of the measures which are most likely to have an impact on disability equality, gender equality and race equality.

Co-ordinated admissions - improving the application and allocation process for parents

7. Co-ordinated admissions schemes are intended to simplify the admissions process for parents. Until now, parents have applied to the local authority in whose area they live (their ‘home’ authority) for a secondary school place but to the authority in whose area the school is located for a primary school place. Arrangements for applications made outside the normal admissions round varied between local authorities, with parents being required to apply directly to schools in some areas. Changes to the requirements for co-ordinated schemes mean that, in future, parents need only apply to the local authority in whose area they live, regardless of when they require a place and regardless of where the school is located.

8. Also, more key dates in the admissions process will now be set at a national level and parents applying for a primary school place will be able to apply for a minimum of three schools, as is already the case for secondary school applications (in some areas parents were previously only able apply to one primary school). These changes will make the system easier for parents to navigate.

Local consultation process for determining admission arrangements

9. Until now, there has been no opportunity for parents to influence the admission arrangements in their area. The revised Code requires admission authorities to consult parents and local community groups (in addition to other admission authorities, their local authority and the local Admissions Forum) on their admission arrangements. It is for local authorities to decide which community groups it is appropriate for them to consult, but the groups consulted may include Citizens’ Advice Bureaux, disability groups and groups representing ethnic minorities, travellers or Service families.

Information for parents

10. Local authorities are now required to publish a composite prospectus of the admission arrangements for every maintained school in their area. They are required to include in the prospectus a clear and easily understood explanation of each stage of the admissions process and to publish it on their website as well as in hard copy. This will be an improvement on the previous arrangements whereby some local authorities published comprehensive
information whilst others referred parents to individual schools for detailed
information. Local authorities must provide the prospectus in languages other
than English and in alternative formats such as Braille when requested.

New duty on local authorities to report on admission arrangements in their
areas

11. Local authorities are now required report to the Schools Adjudicator
each year on the legality, fairness and effectiveness of the admission
arrangements in their area.

Admission Forums

12. The membership of Admission Forums has been changed to make
them smaller advisory groups and to ensure that they reflect the needs of their
local community. Their focus will also change so that they consider the
fairness rather than the legality of proposed admission arrangements.

Fair Access Protocols

13. Fair Access Protocols exist to ensure that education is secured quickly
for hard to place children but that no school in the area is required to admit
more than its fair share of pupils with challenging behaviour. The revised
Admissions Code specifies the groups of children that may have difficulty
securing a place outside the normal admission round and that must be
covered by a Protocol e.g. children of asylum seekers and refugees, traveller
children, children with special educational needs but without a statement,
children with disabilities and medical conditions, and children returning from
the criminal justice system.

Charging

14. The revised Code includes strengthened guidance to make it clear that
it is not acceptable for schools to ask for any form of payment as part of the
admissions process or to require payment for participation in school trips or
activities which take part during the school day. Guidance on charging for
school activities, to accompany the Code, has also been revised.

Appeals panels

15. Until now, appeal panels could not consider the legality of admission
arrangements when dealing with appeal cases. This could potentially lead to a
panel upholding unlawful arrangements. In future, therefore, where a clear
breach of the Code is brought to a panel’s attention they will be able to
consider the effect of the unlawfulness on the appeal before them and must
refer the admission arrangements to the Schools Adjudicator so that he can
consider the arrangements and amend them if appropriate.

Wider role for the schools adjudicator

16. The Schools Adjudicator has an important role in ensuring fair access.
At the moment, he only has the power to consider admission arrangements
where a formal objection has been referred to him. In future, he will also have a duty to consider the legality of the admission arrangements referred to him by a local authority or the Secretary of State and be able to consider arrangements which he thinks may be unlawful that have come to him by other means.

The evidence base

17. Evidence shows significant achievement gaps based on gender and ethnic background. For example, in 2006, 63.4% of girls achieved five or more grades A*-C at GCSE or equivalent in comparison with 53.8% of boys; and pupils of African, African-Caribbean, Bangladeshi and Pakistani backgrounds achieved below national averages in terms of the numbers GCSEs at grades A*-C\(^1\).

18. Some children with disabilities may also have special educational needs. In 2006, 8.5% of pupils with a statement of special educational needs gained five or more GCSEs at grades A*-C, compared with 65.9% of those without a statement\(^2\). In attempting to reduce these achievement gaps, it is essential to ensure that all children have fair access to good schools which meet their needs.

19. In developing the revised Codes and regulations, we have taken into account responses to 2008 School Admissions consultation. The majority of respondents to the consultation supported the changes being made as a way of improving the application process for parents. In particular, they agreed that there should be greater standardisation in the admission process across the country, supported the co-ordination of all admissions by the 'home' local authority and agreed with the extended role for the Schools Adjudicator. The Department’s response to the consultation is available at www.dcsf.gov.uk/sacode

B Equality Impact Assessment

20. The school admissions framework is intended to ensure that the school admissions system is fair to all children regardless of race, ethnicity, gender or ability and the School Admissions Code already prohibits admission authorities from disadvantaging children from any particular social or racial group or those with disabilities or special educational needs. However, the findings of the two reviews conducted in 2008 (see paragraph 4 above) indicate that more needs to be done to ensure compliance with the Code.

21. The revised Codes and associated legislation introduce a number of measures designed to ensure a higher level of compliance e.g. the wider role of the Schools Adjudicator in considering the legality of admission arrangements and the new duty on local authorities to submit an annual report


\(^2\) Ibid
to the Adjudicator about the legality, fairness and effectiveness of the admission policies in their area.

22. The sections below assess the impact the revised Codes and regulations are likely to have on disability equality, race equality and gender equality. They conclude that an adverse impact is unlikely and that the policy has the clear potential to have a positive impact by introducing greater scrutiny of admission arrangements to ensure that all are fair and by making the admissions process easier for all parents to negotiate.

Disability

23. Under the Disability Discrimination Act 2005 admission authorities are prohibited from discriminating against disabled children in their admission arrangements, in the terms on which they offer to admit a disabled child to the school or by refusing or deliberately omitting to accept an application for admission. A proportion of children with disabilities may also have special educational needs. The Education Act 1996 requires schools to admit a child with a statement of special educational needs which names that school.

24. A number of the changes being made to the admissions framework have the potential to benefit disabled children. In particular, the requirement that local authorities ensure that disabled children and those with special needs but without a statement are covered by their Fair Access Protocol will ensure that a school place is found quickly for such children when they require one outside the normal admissions round.

25. Admissions Forums’ new focus on assessing the fairness of admissions arrangements will help to ensure that admission arrangements do not discriminate against disabled children and changes to the arrangements for the co-ordination of admissions will make the admissions process more straightforward for all parents. It may particularly benefit those for whom the admissions system was disproportionately challenging e.g. because of their own disability or special educational need or because they are caring for a child with a disability or special need. Also, the revised Code requires that any information made available to parents free of charge by a local authority must be made available in alternative formats such as Braille at no cost to a parent who requests it.

26. In response to the consultation, one parent commented:

“… my son has SEN needs but is not bad enough for a statement….. He has Asperger’s and would not be capable of either walking … [or] getting on a bus on his own. No consideration of this was taken. If a child has proven needs even if not stalemated it should be taken into account.”

27. The new requirement on local authorities to consult with parents will enable parents to feed such views to the admission authorities in their area.
Many admission authorities give priority to children who live closer to the school, and this is sensible. However, in some circumstances, those living in the area around the school may be predominantly from one social or ethnic group, whilst those of other social or ethnic groups tend to live further away and therefore have little chance of gaining a place.

People from certain ethnic backgrounds are more likely to be financially disadvantaged than others, as illustrated in the table below.

<table>
<thead>
<tr>
<th>Group</th>
<th>Proportion of children living in poverty</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>25%</td>
</tr>
<tr>
<td>African-Caribbean</td>
<td>37%</td>
</tr>
<tr>
<td>African</td>
<td>56%</td>
</tr>
<tr>
<td>Pakistani</td>
<td>60%</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>70%</td>
</tr>
</tbody>
</table>

Where admission arrangements include catchment areas, the Code already expects admission authorities to ensure that they reflect the diversity of the community served by the school and, where admission arrangements give priority to children living closer to the school, it expects admission authorities to ensure that children whose families are less able to afford property near the school are not disadvantaged.

The new requirement that admission authorities consult parents and community groups will help to ensure that admission arrangements better serve the needs of the local community, e.g. consultation may bring to the admission authority’s attention that their catchment area excludes a geographical area which is predominantly occupied by a certain social or racial group.

However, some respondents to the consultation acknowledged that existing residential segregation (i.e. people of different ethnic and social backgrounds living in different areas) means that such problems cannot easily be solved. One felt that the measures being taken:

“…do nothing to address the …problem where parents who can afford it move into the catchments of the nearest best school pushing those less fortunate out.”

Another commented on an area in which s/he felt:

“…there are clear ghettos that the schools have created…”

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33. Changes to co-ordination arrangements will make the admissions process easier for parents. This will benefit all parents, but particularly those for whom the process is likely to be most challenging e.g. the disadvantaged, new immigrants and those with English as an additional language.

34. The new requirement that local authorities publish a composite prospectus of the admission arrangements for every maintained school in their area is intended to make the admissions process easier for all parents and to ensure they have the information they need to make informed decisions. However, some respondents to the consultation felt that this measure might be counterproductive. One commented that the information provided would be:

   “… more accessible to relatively well educated ‘middle class’ parents”
   and that there is consequently “a risk that the most disadvantaged sectors of the community will be further disadvantaged.”

35. However, local authorities have a duty to provide Choice Advice to those parents who most need support with the secondary school admissions process which should go at least some way to ensure that this does not happen.

36. The revised Code requires that local authorities’ Fair Access Protocols cover certain specified groups including asylum seekers, refugees, and travellers. This will help to ensure that a school place is quickly secured when children in these groups need one outside the normal admissions round.

37. The revised Code and accompanying guidance on school charging will help to ensure that those from disadvantaged backgrounds are not discouraged from applying to particular schools because they feel they cannot afford it.

Gender

38. Discrimination on the basis of gender by the admission authority for a mixed sex school is extremely unlikely, given that they exist for the purpose of providing education for both boys and girls. However, discrimination on the basis of gender may sometimes occur indirectly, for example, a faith school may wish to give priority to children of a particular faith, and that is perfectly acceptable. However, if it gave priority to children who parents were members of a particular religious group and only men could be members of that group, then that would have the effect of disadvantaging children of single parent families where the parent is the mother.

39. The potential for such indirect discrimination will be reduced by the requirement that admission authorities consult parents on their admission arrangements, by the requirement for the local authority to report annually on the legality, fairness and effectiveness of the admission arrangements in their area, and by the School Adjudicator’s new wider role.
C Next steps

40. Two main mechanisms will be used to provide feedback on how effective the measures in the revised Codes and regulations have been and to inform future policy development:

- In producing his annual report for the Secretary of State, the Schools Adjudicator will take account of the reports he will receive from each local authority on the legality, fairness and effectiveness of local admission arrangements.

- We are also considering setting up an Admissions Consultation Group made up of key stakeholders to discuss topical admissions issues and to develop and share good practice.

41. The Department will also be monitoring school segregation by ethnicity annually, and school segregation compared with if pupils attended their nearest school every two years. The next analysis of school segregation by ethnicity will be performed in August 2009 and the next analysis of school segregation compared with if pupils attended their nearest school will be performed in August 2010.