

Decision Maker: **Children and Young People Portfolio Holder**

Date: **For Pre-Decision Scrutiny by the Children and Young People PDS  
Committee on 14 July 2011**

Decision Type: Non-Urgent Executive Non-Key

**TITLE: CONSULTATION ON CHANGES TO THE ADMISSIONS CODE  
OF PRACTICE: BROMLEY'S RESPONSE**

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Chief Officer: Gillian Pearson, Director of Children and Young People Services

Ward: Boroughwide

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1. Reason for report

- 1.1 The Government is seeking views on proposed changes to the Codes of Practice for School Admissions and School Admissions Appeals. This report provides information on the changes and the Director of Children and Young People Service's response to the consultation.
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2. **RECOMMENDATION(S)**

- 2.1 **The Children and Young People Portfolio Holder is recommended to agree the Director's proposed consultation response as set out in Appendix 1 of this report.**

### Corporate Policy

1. Policy Status: Existing policy: Children and Young People's Plan 2009-2011
  2. BBB Priority: Children and Young People
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### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A
  3. Budget head/performance centre: N/A
  4. Total current budget for this head: £N/A
  5. Source of funding:
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### Staff

1. Number of staff (current and additional) – N/A
  2. If from existing staff resources, number of staff hours – N/A
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### Legal

1. Legal Requirement: Statutory requirement: Education Act 1996 School Standard and Framework Act 1998 Education Act 2002
  2. Call in: Call-in is applicable
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected) -
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments:

### **3. COMMENTARY**

#### **Background**

- 3.1 The Secretary of State for Education published the “Importance of Teaching” White Paper on 24 November 2010, as the basis for the Education Bill which sets out the future role and responsibilities for Local Authorities and Schools. The White Paper included the intention to review the school admissions system to *“make it simpler, fairer and more transparent, building on the principle of placing trust back in schools and head teachers”*. As a result of this review the Government issued new drafts of the School Admission Code and the School Admissions Appeal Code on 27 May 2011.
- 3.2 The government is seeking views on the proposed new codes during a twelve week consultation period, closing on 19 August 2011. It is proposed that the new code will not affect the next admissions round (for entry in September 2012) but will take effect for the September 2013 intake. All schools, including academies, are required to abide by these codes.

#### **Proposed Key Changes to the School Admissions Code**

- 3.3 There would no longer be a requirement to consult on any increases in the Published Admissions Number (PAN) of a school. Admission authorities would have to notify the local authority, local schools and other relevant persons in the area, of their intention to increase their PAN.
- 3.4 Where the Schools Adjudicator considers any objection that an increase in PAN is unreasonable, he would 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. In making decisions on a proposal to decrease PAN, the presumption would be against decreases in PAN unless the admission authority provides sufficient evidence of a sustained decrease in parental demand.
- 3.5 It is proposed that children of staff at a school may be prioritised in admission arrangements. If admission authorities decide to give priority to children of staff, they would have to set out clearly in their admission arrangements how they will define ‘staff’ and on what basis children of staff will be prioritised
- 3.6 Free Schools and Academies would also, where their funding agreements permit, be permitted to give priority in admission arrangements to children eligible for Free School Meals (in future, the Pupil Premium). The DfE has stated that further guidance will be produced on this policy area following consultation.
- 3.7 It is proposed to add two new categories to the list of exceptions that allow infant classes to admit more than 30 pupils; twins (and other multiple birth children) and service children. Schools would be able to admit children from these groups above the class size limit of 30 without falling foul of the regulations. The DfE is also consulting on removing the requirement on admission authorities to take correcting measures to ensure a teacher to pupil ratio of 1 to 30 at the end of the year in which the excepted pupils enter the class.
- 3.8 It is proposed that there would no longer be a requirement for local authorities to co-ordinate ‘in year’ applications but they would have to, on request, provide information to a parent about the places still available within the area, and a suitable form for parents to use in applying to a school for a place for their child. Any parent could apply for a place for their child at any time to any school. Admission authorities would be required, on receipt of an in year application, to 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.

- 3.9 Where no changes to admission arrangements are proposed, admission authorities would only be required to consult on their admission arrangements once every 7 years rather than the current three years. Any admission authority seeking to make changes to their admission arrangements would still be required to consult on those changes before they are determined, other than an increase to the PAN.
- 3.10 Currently only a restricted list of people can object to admissions arrangements they believe are unfair. It is proposed that anyone will be able to object. The draft code is also clear that local authorities will retain the power to refer any admissions arrangements they believe are not complying with the code to the Schools Adjudicator.
- 3.11 The revised Admissions Code has been drafted with reference to provisions that are contained within the Education Bill. This includes removing the requirements on local authorities in England to set up Admission Forums and removes the requirement for local authorities to report annually to the Schools Adjudicator on how fair access is working in their areas.

### **Proposed Key Changes to the School Admissions Appeal Code**

- 3.12 Parents will have at least 30 days to lodge an appeal against primary or secondary school decisions. It is the Government's view that the current 10-day limit forces parents to appeal quickly. In the last school year for which figures are available (2008/09), more than a quarter of all appeals lodged (24,550 out of 88,270) were not taken forward, wasting time and money.
- 3.13 The current guidance that advises against appeals from being heard on school premises will be removed.
- 3.14 The regulation for admission authorities to advertise for lay appeal members every three years will also be removed.
- 3.15 The process for reaching a decision on an appeal has been set out as a three stage process with guidance on how panels should reach their decision.

### **Consultation Response**

- 3.16 The DfE has issued a Consultation response form seeking views of interested parties. The draft response of the Director of Children and Young People Services, prepared on behalf of the Local Authority, is attached as **Appendix 1** to this report. It is anticipated that other Admission Authorities within Bromley will respond individually to the consultation. The CYP Portfolio Holder is asked to consider the Director's proposed response as a basis for submission to the DfE.

## **4. POLICY IMPLICATIONS**

- 4.1 Bromley is required to operate its own admissions policies in line with any DfE code of practice.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 There are no direct financial implications arising from the response to the consultation. However there may be financial implications arising if any proposed changes are introduced. This will be dealt with as part of the budget process.

**6. LEGAL IMPLICATIONS**

6.1 The Council has a statutory duty to ensure that there are sufficient places for pupils within its area. To facilitate this it operates a common admissions policy. Both the Council and all schools (including new academies) are obliged by statute to have regard to and comply with any published code of School Admissions or school Admissions Appeals Code.

<b>Non-Applicable Sections:</b>	Personnel Implications
Background Documents: (Access via Contact Officer)	

We have sought to remove all duplication and sections of the Codes that were open to misinterpretation, so it is clearer what admission authorities must and must not do within the new Codes as well as making them easier to read and understand.

One of the aims of reviewing the Codes was to reduce the burdens and bureaucracy that schools face by removing unnecessary prescription and elements that drove cost into the process.

The revised Codes should ensure that all school places can continue to be offered in a fair and lawful way, and that school admission appeals can be administered in a more effective way and at lower cost.

**Q1) Do you agree that the new Codes achieve these aims?**

Agree

Disagree

Not sure

Comments:

The simplification of the code, making it easier for parents to understand, whilst retaining the important safeguards for vulnerable groups is welcomed.

**Q2) Do you agree with the proposals to allow all popular and successful schools to increase their Published Admission Number?**

Agree

Disagree

Not sure

Comments:

The Local Authority (LA) recognises the benefit of allowing successful schools to expand should the Admission Authority decide that it is desirable and achievable. It is essential that the proposed Code of Practice retains the requirement for admission authorities to notify the local authority of any intention to increase PAN so that the LA can fulfil its statutory duties relating to school place planning.

**Q3) Do you agree that Academies and Free Schools should be able to give priority to children attracting the Pupil Premium in their admission arrangements?**

Agree

Disagree

Not sure

Comments:

The Local Authority supports the proposal that schools should be able to give priority to children attracting the Pupil Premium but does not agree that this should be limited to Academies and Free Schools. Any admission authority should be able to include such an over-subscription criterion in its admission arrangements subject to the requirements of consultation on the arrangements.

**Q4) Do you support the proposal to remove the requirement for local authorities to co-ordinate in year applications?**

Yes

No

Not Sure

Comments:

It is accepted that the additional burden of coordinating “in-year” admissions has been a challenge for Local Authorities to introduce successfully. However, the proposed arrangements will require a similar amount of work for the LA as it is proposed that parents would still make initial contact with their Local Authority. There would still be a need to exchange information with all schools on vacancies as well as inform parents of places available in the area, and issuing an application form that can be used for any school. Parents would be required to make multiple applications to schools rather than submit one common application form to the LA.

The proposed process risks a return to the situation of some applicants receiving, and holding, multiple offers whilst others receive no offer. It is unlikely that the new process would reduce the delay for many parents getting their children into a school, particularly those from disadvantaged backgrounds. It is the LA’s view that the current requirement to coordinate in-year admissions should be retained.

**Q5) Do you support the proposed change to the use of random allocation?**

Yes

No

Not Sure

Comments:

The Local Authority supports the restriction of the use of random allocation as an oversubscription criterion for individual schools and the proposal that it should not be used as the principal route for awarding school places

**Q6) Do you support proposals to add twins (and multiple births) and children of service personnel to the list of excepted pupils?**

Yes

No

Not sure

Comments:

This seems a sensible addition to the limited circumstances where infant classes can admit more than 30 pupils. The LA also supports the proposal to remove the requirement on schools to take 'correcting measures' to return to a maximum of 30 pupils at the end of the year that excepted pupils are admitted. This will avoid the need for schools to take potentially expensive measures.



**Q7) 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

Disagree

Not sure

Comments:

The Local Authority welcomes the reduction in this bureaucratic burden.

**Q8) Do you agree with the proposal to allow schools to give priority to applications for children of staff in their over-subscription criteria?**

Agree

Disagree

Not sure

Comments:

With many local schools significantly over subscribed the LA does not support the proposal that priority should be given to any children based on their parents occupation or where they work. Although it is recognised that giving priority to school staff may help to recruit or retain key staff, it does not seem fair that any child should be denied a place that they would otherwise have been allocated because the child of a member of the school staff has been given a place.

This was the view of the then Education Committee in January 2002, following a report into the shortage of secondary school places in the Borough at the time. Members approved objections to the Office of the School Adjudicator for schools that gave priority to the children of school staff. All such objections were successful as the case was accepted that such priority was not fair. The Adjudicator concluded that "In the nature of things it appears unlikely that this criterion (children of staff at the school) would ever have a major impact but the level of oversubscription...is so significant that the operation of this criterion could disproportionately disadvantage other children in the area". It is the LA's view that this reasoning is as correct today as it was in 2002.

**Q9) 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

Disagree

Not sure

Comments:

Although it is accepted that the present arrangements are too restrictive, the LA would seek measures to ensure that a party with no connection to the local area could not make irrelevant or vexatious referrals to the Office of the Schools Adjudicator (OSA). Responses to any referral to OSA are time consuming and expensive for the LA and it would not seem reasonable for there to be an increase in referrals resulting from objectors that have no connection with the local area nor for whom any decision could not have any material impact.

**Q10) Do you agree that the deadline for objections to the Schools Adjudicator should be moved to 30 June from 31 July?**

Agree

Disagree

Not sure

Comments:

The present July deadline is difficult for schools and the local authority as little progress can be made on objections during August. This LA has had experience of these difficulties on at least two occasions.

It is hoped that the Adjudicator would retain the discretion to accept late referrals where he deemed it appropriate.

**Q11) Do you agree with the less prescriptive requirements around the operation, governance and training of appeals panels?**

Agree

Disagree

Not sure

Comments:

The new code provides sufficient safeguards that appeal panels remain independent of the admission authority, and that they are operated effectively. The frequency and nature of the training required should be a local matter rather than prescribed by the code.

**Q12) Do you agree that the proposed appeals timetable will give more certainty to parents and reduce the number of appeals overall?**

Agree

Disagree

Not sure

Comments:

The timetable should provide more certainty for parents, however it remains to be seen whether it will have any impact on the number of appeals submitted.

**Q13 Do you agree that the proposed new timetable for lodging and hearing appeals will reduce costs and bureaucracy for admission authorities?**

Agree

Disagree

Not sure

Comments:

Costs will only be reduced if the number of appeals reduces as a result of the proposed changes.

**Q14 Do you agree that the new three stage process will provide a more effective process for appeals panels to consider multiple and individual appeals?**

Agree

Disagree

Not sure

Comments:

The new code provides clear guidance on the matters that the panel should consider when reaching their decision.