

April 2017

LINCOLNSHIRE COUNTY COUNCIL

Co-ordinated Mid-Year Admissions Arrangements

Applicable from April 2017

Co-ordinated arrangements for midyear admissions in Lincolnshire

Introduction

Although not a requirement of the School Admissions Code 2014 (the Code) it is the view of Lincolnshire County Council that midyear coordination is sensible as it:

- supports safeguarding,
- minimises delays for children seeking new school places and
- wherever possible avoids children becoming classed as “children missing education”

We also take the view that the coordinated midyear process creates a clear audit trail to demonstrate to oversight bodies (Local Government Ombudsman, Education Funding Agency, Department for Education, Ofsted, Schools Adjudicator) that all involved with these applications are working together in a timely manner to place children as quickly as possible.

The Ombudsman in particular has severely criticised schools and local authorities where delays in dealing with admissions requests have resulted in avoidable time out of school for children, or parents being unable to exercise their legal right of independent appeal

- The purpose of these arrangements is therefore to co-ordinate the admission of pupils into schools and academies in Lincolnshire, outside of the normal admission round. These are known as midyear or inyear admissions.
- The LA will follow these arrangements in working with every school in the area, including the UTC, academies, community, voluntary controlled, Free, voluntary aided and foundation schools. We do not process applications for schools outside of Lincolnshire.
- Independent schools, special schools, alternative provision, hospital schools, and nursery schools are outside the remit of the scheme.
- Children with a statement of Special Educational Need or an Education and Health Care Plan naming the school are outside the remit of these arrangements; their midyear moves are handled by the SEND team.
- Decisions on midyear admissions requests have been delegated to governing bodies of community and voluntary controlled schools.
- Own admission authority schools are responsible for implementing their admission policy and oversubscription criteria for mid-year admissions.
- Under these arrangements **all** schools may deal with an application direct from the parents. The Code states that schools doing this **must** notify the LA of the application and its outcome.
- All schools may make midyear offers of places above PAN within their existing resources and in accordance with their oversubscription criteria where applicable.

Reasons for transfer

The main reason for parents to request a transfer is that they are moving house and their children will need to transfer schools, as to continue to attend the current school will be impractical.

The requirements of the School Admissions Code 2014

- The code states that outside the main admissions round any parent may express a preference for any school at any time.
- The LA **must** provide a suitable application form for all parents of children who live in the county and wish to be admitted to a school, or transferred between schools outside of the normal admission round.
 - The Council provides both an online and a paper form, the information parents must provide is identical; we treat the paper and electronic channels of application equally in these arrangements. The majority of parents now make these applications online.

The midyear application form

- Enables the parent to state up to three preferences in rank order of preference

We must not share the order of preference with the preferred schools, as this would be a breach of Data Protection.

All parental preferences given in one of these ways are valid applications:

- the school's local midyear admissions form, where this exists,
- the Lincolnshire midyear application form or,
- if living in another area, their home authority's application form, where this exists

The Code states:

Admission authorities **must** allocate places on the basis of their determined 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.

Where a preferred school needs further specific information to rank the application correctly according to the published oversubscription criteria it may ask parents for this. This could apply, for example, where parents claim priority on religious grounds at a faith school taking account of this factor. This is the only lawful reason for schools to contact parents prior to making a decision on an application.

The Code states that schools **must not** interview parents and children as part of the admissions process, schools contacting parents other than as

explained above (especially to seek information about the factors listed below) are therefore exposed to the challenge that they are acting unlawfully.

Schools **must not** delay an "offer/refuse" response to seek the following information as the School Admission Code states that it would be unlawful to take into account:

- Information about the curriculum at the child's previous school
- Information about the child's special educational need
- Reports of the child's previous behaviour, attendance, attitude or achievement
- Reports of the previous behaviour, attendance, attitude or achievement of other children in the family

For the school that has offered a place to contact parents for the necessary information to integrate the child is lawful, but separate from and subsequent to the decision to offer or refuse a place.

Grammar schools or schools that have criteria for aptitude **must** ensure that their arrangements for assessing ability or aptitude are reasonable and minimise delays processing applications and time out of education for children as far as practically possible. Taking the test is not an application for the school and not reaching the required standard is the outcome of the test, not a refusal of a place.

Applications relating to Year 11 children

Where no house move has taken place the LA will inform parents of the potential adverse consequences of a move, but schools and the LA must process the application if parents insist. All schools will be similarly placed with regard to curriculum difficulties and it would be unlawful to consider this factor. These children have the right of access to education up to the last Friday in June.

Processing of midyear application forms

Completed online midyear applications (the default channel of application) and midyear application forms are returned to the school admissions team so that mid-year admissions can be coordinated as far as possible.

The LA aspires to resolve all midyear applications by offering a school place within 15 school days of receipt. Our timetable is given below. For speed all communication with schools will be by email or phone.

We normally deal with applications a maximum of 6 school weeks in advance of a known house move, this includes Forces children as the Admissions Code and the Military Covenant aim to secure that these children are treated equally to all others rather than being disadvantaged by Services life.

The exception to the usual 6 week lead time is applications relating to a start at the beginning of term in September; we will send these to

schools as soon as practically possible at the start of term 6 after the summer half term holiday.

It is important to note that this six week period is a local working practice applied equally to all applicants, where parents challenge whether it is appropriate in all the circumstances of their individual case the school admissions team will review this on a case by case basis.

Processing Midyear applications in Lincolnshire

Timeline applicable from 1 April 2017

To deal with these applications promptly we ask schools to respond to midyear requests **either offering or refusing a place** within 2 school days. We appreciate that this is a very tight schedule but must minimise avoidable time out of school for children.

Determining offers

The LA acts as a clearing house for the allocation of places in response to the midyear application forms.

The Code states that the LA **must** offer the highest available parental preference school.

Admission authorities **must** comply with parental preference unless one of the statutory reasons for refusing admission applies. These are given later in this document.

The School Standards and Framework Act 1998 does not allow refusal on "prejudice" below PAN in the normal year of entry.

(With the exception of non-qualification for a grammar school).

The local authority will only make a decision with respect to the offer or refusal of a place in response to any preference given on the application form where:

- a) it is acting in its capacity as an admission authority, or
- b) an applicant is eligible for a place at more than one school, or
- c) where an applicant living in Lincolnshire, (or who has provided proof of their future Lincolnshire address,) but without a school place has been refused a place at all of their preferences; the local authority will offer a place at the next nearest school. (This will apply to children returning from Elective Home Education, but not those where there is an issue between the parents and the current school.)

Determination of the next nearest school

When an application is received for a child that does not have a school place, and none of the preferences can be met, a place will be offered at the next nearest non selective school in Lincolnshire with places available, once proof of the Lincolnshire address has been received.

The nearest school will be determined by using the normal local authority measuring system of shortest driving distance between the address point of the home and address point of the school, as described in 'Going to School in Lincolnshire'.

The LA will consider all non-selective schools equally, as Faith schools with places must admit children of any Faith.

Schools and admission authorities **must** offer next nearest places promptly when approached by the LA, unless one of the statutory reasons for refusing admission applies. These are given later in this document. Schools **must not** make their replies conditional on receiving other information as this could cause avoidable delay and would be non-compliant with the Code as explained above.

Refusals of places

Where preferred schools refuse places the school admissions team will give parents information about the reason for the refusal and their statutory right of appeal to an independent school admission appeals panel.

Timetable

The full timetable for dealing with midyear applications and offers is given below.

Offer letters

A copy of the offer letter will be sent to the school.

The offer letter asks parents to contact the school to arrange admission by a specified date.

This date is considered the "expected or notified" first day of attendance at the offered school. On this date, at the latest, the school must put the child on roll. Schools must do this and take responsibility for the child regardless of whether parents engage promptly with the process of integrating the child.

The offered school is responsible for following up with parents in the event that the child does not begin to attend. This includes where the place offered is the "next nearest".

Schools are an essential part of the universal safety net to safeguard children therefore it is vital that they take these actions, so that children are not left in a situation where they may fall into a "gap" between the LA and the offered school.

Once a place has been offered the Local Authority will close the case in the midyear system and the offered school becomes responsible for the child.

Integrating the child

Once a place has been offered the school may lawfully contact parents, the previous school, and any professionals involved to gather information necessary to integrate the child and support them making a successful start in their new school.

Withdrawing places;

The School Admissions Code 2014 permits the admission authority for a school to withdraw the offer of a place for only three reasons:

- It has been offered in error,
- a parent has not responded within a reasonable period of time,
- or it is established that the offer 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 offer may be withdrawn if they do not.

Schools considering withdrawing a place should contact the school admissions team for advice and must notify the LA if they decide to withdraw a place to minimise the risk of children becoming lost to the system.

Admission appeals

- It is normal practice for independent school admission appeal panels to ask to see the application form and letter of refusal when they hear an appeal.
- Own admission authority secondary schools and academies will send out their own information about appeals unless they have bought this service from the LA school admissions team.

The local authority will send out information about appeals for all primary schools, community and controlled secondary schools, and own admission authority secondary schools working with the school admissions team on appeals.

Out of cohort requests and appeals

- Paragraph 1.17 of the Code states that parents may request a cohort other than the date of birth one.
- Schools' governing bodies **must** consider these requests individually on the basis of the information supplied by the parents. Schools **must** consider DfE guidance on these requests, for example the head teacher **must** be involved in the decision and where the child has been educated out of cohort for some while this **must** be considered.
- If a student is (for example) year 11 chronologically, but the parents want a year 10 place, there is no right of appeal where the school disagrees with parents and refuses a Y10 place, but offers a place in year 11.
- When sending these requests to preferred schools the school admissions team provides detailed guidance.

Midyear applications where no house move has taken place

The admissions code specifically says that outside the main admissions round any parent may apply for a place at any school at any time.

However, where no house move has taken place the LA view is that a move will not usually be the best thing for the child in Y10 and above.

On receipt of these applications the school admissions team will initially write to the parent recommending that they work with the current school to see if any issues can be resolved, the team will send the current school a copy of this letter.

The letter for parents includes this section:

In case the information is relevant to your situation we would like to point out that Head teachers cannot legally direct a pupil to find a new school in order to avoid permanent exclusion. If this is the reason for your mid-year application, you should call the pupil reintegration team on 01522 553318 or 01522 553510 or email prt@lincolnshire.gov.uk.

The letter also recommends that parents gather as much information as they can before pursuing their application, perhaps visiting the preferred school, to make sure that a move would in fact benefit the child.

The school admissions team does this because the LA view is that parents do not always appreciate that a move could disrupt a child's education, for example by forcing them to give up an option subject that is really important to them, or by putting them in the position of having to re-do work because examination boards are different in the two schools.

Where parents insist that the only way forward is to change schools, the school admissions team will seek a place in the schools that parents list on

the mid-year form. If all preferred schools refuse a place the LA will **not** identify and offer a "next nearest" place.

Children who do not come under these arrangements

Two groups of children may need places midyear, but do not come under these midyear arrangements.

- Children with statements who need to move schools midyear are placed by the SEND team under their processes.
- The Pupil Reintegration Team (PRT) may seek to place children, who have been permanently excluded, or who are at risk of permanent exclusion; these requests are also separate from the usual midyear admissions process. (Note that parents of these children may make a midyear application separate to and independent of any work that PRT may be doing to place the child.)

Looked After Children

In the view of the LA the School Admissions Code 2014 requires that all schools will automatically admit these children moving midyear as preferred by the corporate parent even above the admissions number, or where the child might be described as "challenging".

Where necessary these children are an exception to the infant class size limit.

In July 2014 the DfE issued guidance that these children should normally be placed in schools rated "good" or better by Ofsted.

Where Lincolnshire County Council is the LA looking after the child it will support requests to place these children at:

- The nearest school rated good or outstanding by Ofsted to the address
- The nearest school to the address
- The designated school for transport purposes for the address
- A school attended by another child in the family unit
- A school identified by a relevant professional such as a Social Worker or Looked After Children's Officer as being particularly suited to meet the child's needs for a specific reason

In very rare cases a school may take the view that it would be exceptionally prejudicial or not in the child's best interests to offer a place. Where schools take this view we would expect to receive this within 2 school days accompanied by carefully reasoned arguments supported by objective information. We expect that these will be **substantially** beyond the general argument for "prejudice" under section 86 3 (a) of the SSFA 1998 applicable to general refusals of midyear admission.

Where necessary the LA will use its powers of direction or seek directions of academies via the EFA to support these children.

Where the child is a Lincolnshire resident looked after by another LA we will work with that LA to place the child, the LA looking after the child will decide whether to direct admission or seek a direction of an Academy via the EFA.

HM Forces: Requirements of the school admissions code 2014

For families of service personnel with a confirmed posting to their area, or crown servants returning from overseas to live in that area, admission authorities **must**:

- Allocate a place in advance of the family arriving in the area provided the application is accompanied by an official letter that declares a relocation date and a Unit postal address or quartering area address when 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.

To inform schools' decision-making the school admissions team will forward all supporting documentation submitted by families.

Under section 2.15 (f) of the school admissions code 2014 Services children moving midyear are exceptions to the infant class size limit, primary schools **must** take account of this in deciding on these applications as they cannot be refused on infant class size grounds.

The Fair Access Protocol

For midyear applicants the protocol is triggered when there is no place available for a child within a “reasonable” distance; for primary children we define this as 5 miles, for secondary children 15 miles (the school admissions team measures this by shortest driving distance).

The school admissions team will only approach schools with these requests when we can document that this is the case. Where the school admissions team has to approach a school with such a request it will include its reasoning; this will take account of known patterns of movement in the area, distance to schools, potential entitlement to transport and parental preference.

These children are admitted exceptionally above PAN, ahead of any children on a reserve list and irrespective of whether appeals have been heard or are planned. Where relevant they are exceptions to the Infant Class Size limit under section 2.15 e of the Code. The Code disapplies the requirement to comply with parental preference in operating the protocol, although it is still an important consideration.

Lawful reasons for refusing a place

In the view of the LA there are only two lawful responses to a parental application for a place, or a request from the LA for a next nearest place.

These are:

- Yes, we will admit this child.
- No, we will not admit this child, together with the reason for refusal

The School Standards and Framework Act 1998 only allow refusals in the normal year of entry if the cohort is up to the PAN (unless the child has not qualified in the tests for a selective school).

In our view schools refusing a place **must** give one of the following reasons for refusal allowed by the School Admissions Code and the School Standards and Framework Act 1998, there is a reminder of these in the email we send to schools with requests for places:

- The year group is up to PAN and another child will take a class over the infant class size limit (either now or in the future)
- Although the year group is below PAN another child will take a class over the infant class size limit (either now or in the future)
- The year group is up to PAN and another child will prejudice the provision of efficient education or the efficient use of resources
- Although the year group is below PAN another child will prejudice the provision of efficient education or the efficient use of resources (in this case we request that schools provide a detailed explanation of the difficulties; typically this arises because the school is between 25 and 30 below PAN and has had to reorganise accordingly)
- This is a grammar school and the child has either not taken the selection tests, or has taken them and not reached the qualifying standard (this may be in combination with a refusal based on fullness, grammar schools must make this clear when responding)

Unlawful reasons for refusing a place

In the LA view certain responses are unlawful, as the admissions code states that schools **must not** refuse children because:

- Information has not been received from the child's previous school
- They have followed a different curriculum at their previous school
- They are not of the relevant faith in the case of a faith school
- The school is of the view that the child's special educational needs should be assessed before admission
- There are negative reports of the child's previous behaviour, attendance, attitude or achievement
- There are negative reports of the previous behaviour, attendance, attitude or achievement of other children in the family
- The family have not yet visited the school

In some cases schools resisting admission in this way may run the risk of appearing to discriminate on special needs or disability, or seeking to operate an unlawful selective practice.

The code specifically bans interviews in connection with the admissions process; therefore it would be unlawful to require the family to visit the school prior to making a decision about the application. We have explained earlier in these arrangements that once a place has been offered the school offering the place can lawfully gather all the information needed to induct and support the child.

Challenging children

- The 2014 code (section 3.12) gives little detail on this issue.
- The code does not give a definition of a “challenging” child.
- The code states that schools (normally only those with a high proportion of challenging or previously excluded children) wishing to resist the admission of a challenging child **must** refer the child to the local authority for consideration under the fair access protocol*.
- The code no longer gives schools in an Ofsted category the right to refuse places to any further applicants

*The Pupil Reintegration Team may not accept that a specific child is "challenging" unless the child has a record of poor behaviour equivalent to what would be required to justify permanent exclusion.

If the child is not accepted as "challenging" they will not come under the FAP, in which case they will have to be considered in the same way as any other midyear application.

Midyear admissions timetable from April 2017

School day	School Admissions Team	School
1	<p>Receives midyear application.</p> <p>Application checked and imported onto the system</p> <p>Application emailed to parent's preferred school(s)</p>	Receives application
2		<p>Decides on response (see below).</p> <p>Schools may offer over PAN if they can manage the child within current organisation and resources</p>
3		<p>Decides on response (see below).</p> <p>Schools may offer over PAN if they can manage the child within current organisation and resources</p> <p>Emails decision to admissions (see below).</p>
4	<p>Follows up on any outstanding responses from schools.</p> <p>If more than one school can offer a place the team offers the highest available parental preference and sends the offer letter.</p> <p>If no preferred school can offer the team sends a refusal letter so parents can appeal promptly if they wish.</p> <p>Starts Next Nearest School work:</p> <p>Rings round schools in increasing order of distance from the child's home to find the nearest school place if no preferred school can offer.</p> <p>Sends copy of application form to the next nearest school once it is identified.</p>	<p>Contacts parents of a child to be admitted to make practical arrangements to get the child off to a good start.</p> <p>Offers/refuses next nearest place over the phone to school admissions</p>

School Day	School Admissions Team	School
5	<p>Sends an offer of the nearest possible school place.</p> <p>If there is no place available within a reasonable distance (5 miles for primary, 15 miles for secondary) considers using the Fair Access Protocol (FAP).</p> <p>If necessary sends FAP email to the selected school asking for a response in 24 hrs.</p>	<p>Receives FAP email and responds within 24 hours.</p>
6	<p>Offers agreed place under FAP procedure.</p> <p>If an academy refuses a FAP request begins filling out the form to refer to Education Funding Agency (EFA) for a direction from Secretary of State.</p>	
7	<p>Sends formal request for direction of an academy to EFA</p>	
8 onwards	<p>Undertakes appropriate casework in the most complex cases and continues this until the applications is resolved</p>	