

## Memorandum of understanding

### Admissions arrangements in Community and Voluntary Controlled (C/VC) Schools

In these schools Lincolnshire County Council (LCC) is the admission authority (AA).

As the AA for these schools LCC has the power to insist on the admission of any child who has not previously been permanently excluded from the school.

LCC as the AA is responsible for setting the published admission number (PAN) for these schools and their admissions policy, including the oversubscription (OS) criteria used to rank applications if the school has more applications than places available.

To make a significant change to the OS criteria LCC **must** carry out the consultation process specified in the School Admissions Code 2014 (the Code). This process carries a lead time of around 18 months to implementation of new criteria. Individual maintained schools have no powers to vary the criteria.

### Publication of admissions arrangements

LCC publishes the admission arrangements for maintained schools at [www.lincolnshire.gov.uk/schooladmissions](http://www.lincolnshire.gov.uk/schooladmissions)

- Schools must ensure that their websites direct parents to LCC's policy on the LCC website.
- Schools must ensure that there is no admissions information on their website other than the current and correct LCC policies for the current school years; This will be;
  - The policy for the current school year, relevant for mid-year admissions,
  - the policy for the next school year, relevant for admissions in the co-ordinated round and
  - the policy for the following year after 28<sup>th</sup> February when it has been determined by LCC.

Note: creating a local version of the policy is unnecessary, carries a risk of divergence from the correct policy and is poor practice.

- School staff and Governors working on admissions matters must familiarise themselves with the LCC policy as it applies to their school.

LCC is responsible for dealing with any appeals to the independent school admission appeals panel that parents may make. School Governors and school staff **must not** support individual parental appeals for places at the school where they are Governors or work, as this would be unlawful under the School Admission Appeals Code 2012 (the Appeals Code), and must refrain from suggesting to parents that the result of any appeal is predictable. Schools are welcome, but not obliged, to send a representative to the appeal.

### Church criterion

Governors of VC schools may request the alteration or removal of the Church criterion, but LCC **must** consult on this as specified above. The Code specifies that LCC **must** consider the position of the Lincoln Diocesan Board of Education (LDBE) with regard to the Church criterion.

The LDBE's position, stated in writing to all relevant schools and the LA is that it prefers that these schools **do not** operate the Church criterion. The LDBE position means that LCC would be likely to agree to the removal or narrowing in scope of a Church criterion.

The LDBE position makes it unlikely that LCC would be able to agree to operating the Church criterion in a VC school where this is not already in place, or to the revision of a criterion to broaden its scope and make more children eligible for this priority.

LCC prefers that where VC schools operate this criterion it should be limited in scope, for example to children of regular worshippers (defined as at least once a month for 12 months at time of application) at the **local** Church. Recent legal advice arising out of the appeals process has indicated that even this may be open to challenge unless there is a stable incumbent or clear records are kept of attendance.

Governors of VC schools operating this criterion should review how they work with the local Church with this advice in mind.

### **The roles of the school admissions team and the Governors**

The Governors of C/VC schools make admissions decisions by applying LCC's published admission arrangements. As applications are updated daily, it would cause unacceptable delay or be an unreasonable burden to schools to make these decisions at full Governing Body meetings. Therefore the Governors must consider how best to make timely admissions decisions within their school. They may achieve this, for example, by setting up an admissions sub-committee with appropriate delegated powers to avoid a full meeting being held each time. This sub-committee may not formally meet but may make decisions via email if appropriate. Governors should outline how they intend to deal with admissions in the interests of transparency. The following should be taken into account;

- Headteachers and school administrators **must not** make admissions decisions alone because the Code specifies that these decisions **must not** be made by a single person.
- The Code states that admission arrangements **must** be clear, procedurally fair and objective.
- The Code **prohibits** taking into account various factors including the child's behaviour, special needs, attendance and the previous school attended.
- All offers of places **must** be consistent with the OS criteria in the published admissions policy.

For a headteacher or Governors to deal with admissions other than in accordance with the Code and LCC policy would be to act unlawfully. Heads and governors of C/VC schools would be, respectively, in breach of employment conditions if acting in this way.

Officers in the LCC school admissions team will support the Governors' work on admissions by monitoring decisions to be sure that they comply with the Code, that the Governors have followed the appropriate procedure and applied LCC policy.

LCC is the AA for C/VC schools and therefore has the power to insist on the admission of any child; this might be necessary, for example, to address a procedural error that had deprived a child of an offer of a place that would otherwise have been made.

The Governors are responsible for ensuring that school staff:

- Check sibling claims
- Verify Church claims where relevant
- Check and record qualification for a selective school where applicable
- Review whether addresses and distance measurements appear plausible, raising any apparent anomalies with the school admissions team as soon as possible

The Governors will:

- Consult with the LA regarding parental requests for out of cohort places and recommend their acceptance or refusal **giving detailed reasons** covering the factors listed in the Code. Officers in the school admissions team will provide advice on these unusual cases and review the process followed by the Governors.
  - In the event that a decision may not have followed the required process officers may request that the Governors re-consider it, or provide more detailed reasoning for their decision.
  - If it is not possible to resolve the matter in this way LCC officers will consider all available information and make the decision on the parental request.
- Review the evidence around potentially fraudulent addresses and recommend whether to accept them or not
  - the applicable test for the intake year admission round is whether, on balance of probabilities, **parent and child are resident** at the claimed address **at the time of application**
  - for midyear applications it is accepted practice to take account of a binding legal commitment to an address (exchange of contracts on a purchase, or signature of a tenancy agreement on a rented property) up to a **maximum** of six school weeks before the place is needed
- Suggest offers above the PAN as may appear necessary, for example where a local bulge year may otherwise result in children being refused places at their village school.
  - To support this piece of work there is an established and robust process in place as part of the annual admissions round for the intake year.
- Suggest an over-offer with regard to midyear admissions. This could be because there was no clear case for "prejudice" to defend at appeal, to support a Forces family, or to allow all children in the family unit to attend the same school.
  - The school admissions team will check that these offers comply with the Code and advise of any possible implications of the decisions for future appeals.

The Governors will make sure that robust arrangements are in place for schools to respond promptly to **all** requests for midyear places, irrespective of whether these are;

- parental preferences,

- "next nearest" requests where the school admissions team has determined that all preferred and nearer schools have refused to admit the child, or
- Fair Access Protocol requests where the school admissions team is satisfied that it is impossible to place the child within a "reasonable" distance (5 miles for primary age children and 15 for secondary, measured by straight line distance).

Any delay dealing with midyear admissions requests causes children to miss out on education and exposes schools and the LA to reputational damage, challenge, criticism and complaint; therefore the Governors must make appropriate arrangements so that this does not happen. Where a midyear application appears in some way anomalous it is essential to raise this at once with the school admissions team.

## **PAN**

- It is a legal requirement to admit up to PAN in the normal year of intake.
- In all other year groups it is LCC's policy that C/VC schools **will** admit up to the PAN for the intake year.

## **Refusal below PAN**

In cohorts other than the normal year of intake and in very exceptional circumstances the Governors may ask the headteacher to put a case to the school admissions team that the school should be allowed to refuse below PAN.

These requests must be made promptly to minimise delay and time out of education for children and must be accompanied by clear data supporting the argument that the admission of "another child" would cause problems. It is not lawful to consider factors specific to the applicant child, for example SEN, attendance, or behaviour.

Requests to refuse below PAN are unlikely to be accepted unless the year group is so far below PAN that a reorganisation necessary for financial reasons has in effect reduced capacity resulting in "prejudice to the provision of efficient education" if one more child is admitted. Such cases are rare.

## **Reserve lists**

For the normal intake year the school admissions team operates these for all schools until the close of the admissions round in August. The list is then transferred to schools who **must** operate it at least until the end of term in December in order to comply with the Code.

It is LCC policy that C/VC schools **shall** keep reserve lists at other times. The reason is that this minimises delay filling available places and is the most robust method to make sure that places are always offered in accordance with priority under the OS criteria as required by the Code.

Guidance on the operation of the reserve list is available from the school admissions team.

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