

EXPLANATORY MEMORANDUM TO
THE SCHOOL ADMISSIONS CODE
AND
**THE SCHOOL ADMISSIONS (ADMISSION ARRANGEMENTS AND CO-
ORDINATION OF ADMISSION ARRANGEMENTS) (ENGLAND) (AMENDMENT)**
REGULATIONS

2014 No. 2886

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The School Admissions Code 2014 (“the Code”) revises and replaces the existing School Admissions Code 2012 (“the 2012 Code”). Its purpose is to ensure that all school places for maintained schools (excluding special schools) and academies are allocated and offered in an open and fair way. The Code sets out mandatory requirements and guidelines regarding the arrangements by which children are admitted to maintained schools¹.

2.2 The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) (Amendment) Regulations 2014 (“the Regulations”) amend the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012² (“the Admission Regulations 2012”) to give effect to certain provisions of the revised Code. The Admission Regulations 2012 contain provisions concerning the arrangements by which children are admitted to maintained schools in England and provisions concerning the referral of objections to the Schools Adjudicator in respect of maintained schools and academies.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

¹ “Maintained school” is defined in section 84 of the SSFA 1998 to mean a community, foundation or voluntary school.

² SI 2012/8.

4. Legislative Context

4.1 Section 84(1)³ of the SSFA 1998 requires the Secretary of State to issue or revise a Code containing such provision as she thinks appropriate in respect of the discharge of school admission functions by LAs, governing bodies of maintained schools, admission forums, appeal panels and schools adjudicators. The Admission Regulations 2012 provide a legislative basis for certain provisions of the Code.

4.2 The Regulations amend the Admission Regulations 2012 to give effect to the changes in the revised Code. The Regulations also address an inconsistency between the SSFA 1998 and the Admission Regulations 2012 regarding the use of the terms “school year”⁴ and “academic year”⁵. The enabling powers for the Admission Regulations 2012 in the SSFA 1998 use the term “school year” in relation to admission arrangements. Section 88M of the SSFA 1998 uses the term “academic year” but only in relation to a local authority scheme to co-ordinate admission arrangements for admission authorities in its area. The department believes that the term “academic year” was incorrectly adopted in the School Admission (Admission Arrangements) (England) Regulations 2008, a previous version of the secondary legislation on admission arrangements, and that this error was carried through to the Admission Regulations 2012 and the 2012 Code. The Regulations amend the Admission Regulations 2012 to change incorrect references from “academic year” to “school year”.

4.3 Subject to Parliament, the Code and the Regulations are intended to come into force on 19th December 2014, in order to affect admission arrangements being determined for the admission of pupils in the school year 2016-2017.

5. Territorial Extent and Application

5.1 These instruments apply to England.

6. European Convention on Human Rights

As the Code is not subject to the affirmative procedure and does not amend primary legislation, no statement is required.

As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

³ As amended by section 40 of the Education and Inspections Act 2006.

⁴ Defined in section 579 of the Education Act 1996.

⁵ Defined in section 88M of the SSFA 1998.

7.1 The Code introduces specific, limited changes to the 2012 Code. The overarching aim of the changes is to improve the fair and open allocation of places in maintained schools and academies, and to support the government's social mobility agenda by allowing admission authorities to give priority for school places to disadvantaged children, who may currently find it difficult to access a school place at the best schools. The key changes, and their rationale, are summarised below.

7.2 The two main changes, aimed at improving access for disadvantaged children, allow:

- all state-funded schools to give priority in their admission arrangements to children eligible for pupil premium or service premium funding (additional funding provided to schools to support disadvantaged children or those with parents in the Armed Forces, who may have specific pastoral needs). This will provide those schools who wish to support the most disadvantaged children in society with a practical way to do so;
- admission authorities of primary schools to give priority in their admission arrangements to children eligible for the early years pupil premium, pupil premium or service premium who attend a nursery which is established and run by the school. This will allow for continuity of education for those most in need of such stability, whilst ensuring places in the reception class can still be accessed by local parents who choose not to send their child to the nursery.

7.3 Consistent with the government's policy of school autonomy, there would be no requirement for admission authorities to include these priorities in their admission arrangements, but they would have the freedom to do so if they wished. Any admission authority wishing to change its arrangements to introduce such a priority would be required to consult parents and local stakeholders.

7.4 The department has also taken the opportunity to make the following minor changes to existing provisions of the 2012 Code in response to formal and informal feedback on how these have operated in practice since the 2012 Code came into force:

- amend the timetable by which admission arrangements must be consulted upon, determined and published by admission authorities, and for resolving disputes regarding the lawfulness of admission arrangements through objections to the independent Schools Adjudicator. This will reduce burdens on admission authorities regarding requirements for consultation, and ensure that disputes are resolved earlier which will improve the application process for parents and other relevant bodies;
- clarify the provisions relating to the admission of summer born children who wish to delay entry into reception, to aid decision-making for admission authorities.

- introduce a number of minor technical drafting changes to certain provisions of the 2012 Code to improve the clarity of the relevant provisions for the lay reader and to bring the Code up to date with, for example, legislative developments.

7.5 The majority of changes will come into force immediately. This will allow admission authorities who wish to introduce changes to their admission arrangements to prioritised disadvantaged children to consult on revised arrangements to the normal admissions timetable. The amendments to the admissions timetable (described at 7.4) will be phased in from September 2015 to give schools and local authorities time to prepare for these mandatory changes.

8. Consultation outcome

8.1 A 10 week public consultation on the Code was conducted between 22 July and 29 September 2014. The proposed changes were tested in advance of the consultation period with key stakeholders, including local authority and school representatives. During the formal consultation period, further stakeholder engagement was carried out, including meetings with interested representative groups.

8.2 Over 400 responses to the consultation were received from a range of respondents including parents, schools, local authorities, and representative organisations. The proposals were broadly welcomed, although some issues were raised regarding specific details of the policy or how the proposals might work in practice.

8.3 Key points from the consultation were:

- many respondents welcomed the principle of supporting disadvantaged children, whilst emphasising that other local children should not be disadvantaged. Some respondents also raised administrative queries about how these proposals might operate in practice;
- there was strong support for the changes to the admissions timetable, including the deadline for compliance with the adjudicator, which were seen as bringing clarity to the process and reducing delays;
- respondents gave a range of views on the changes around the admission of summer born children, with some urging caution that we should not go further than the changes proposed in the consultation, whilst others supported more substantive changes;
- there was strong support for the minor technical drafting changes, which were seen as bringing helpful clarity to existing provisions.

8.4 The department has made some minor technical changes and clarifications in response to the consultation. For example, we have amended the drafting of the Code in relation to certain provisions to provide additional clarity.

8.5 A full analysis of responses to the consultation is available on the department's website: <https://www.gov.uk/government/consultations/changes-to-the-school-admissions-code>

9. Guidance

9.1 The department will issue advice to admission authorities on how they might implement some of the optional changes in practice, either as the instruments come into force or in response to subsequent demand from the sector. Admission authorities will be alerted to the publication of any advice through departmental email communications.

10. Impact

10.1 There is no impact foreseen on business, charities or voluntary bodies.

10.2 The main impact on the public sector is to bring additional clarity to existing provisions which should make admissions processes easier and clearer for schools and local authorities, although admission authorities may need to make some initial adjustments to their internal processes to bring the minor changes into effect. The main changes introduce optional freedoms which admission authorities may choose to take up but are not required to, and therefore will not place an unnecessary burden on the sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 We will continue to monitor the impact of these instruments through informal contact with schools, local authorities and parents, and through regular meetings with key stakeholders. We will review both whether the minor amendments we have introduced have provided clarity for the sector and whether further changes are needed, and whether admission authorities are choosing to take up the freedoms introduced to improve access for disadvantaged children. We will review the response to and impact of the changes and, if necessary, consider publishing supplementary advice to provide additional support to the sector, or consider whether changes to the legislation are needed in the next Parliament.

13. Contact

Alison Hardacre at the Department for Education, 020 7783 8200 or alison.hardacre@education.gsi.gov.uk, can answer any queries regarding the instrument.