

Report for: Cabinet Member Signing – 18 February 2022

Title: Admission to Schools – Determined Admission Arrangements for 2023/24

Report authorised by: Eveleen Riordan, Assistant Director for Schools and Learning

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Ward(s) affected: All

**Report for Key/
Non-Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1. To continue to meet statutory requirements, the Cabinet Member for Early Years, Children and Families is requested to determine the proposed admission arrangements for the borough's community and voluntary controlled (VC) schools for the 2023/24 academic year. Recommendations below (para. 3) also ask the Cabinet Member to agree to their publication on or before 15 March 2022 on the Council's website, such details to include advice on the right of objection to the Schools Adjudicator.
- 1.2. This year there was no change proposed to the admission arrangements for Haringey community and voluntary controlled (VC) schools. The only changes to the admission arrangements are those reflected in the mandatory requirements that already came into effect from September 2021 because of the Department of Education's (DfE) new School Admissions Code (2021)¹.
- 1.3. On 9 November 2021, Council's Cabinet agreed that statutory consultation should be carried out on the proposed admission arrangements between 26 November 2021 and 7 January 2022.

2. Cabinet Member Introduction

- 2.1. This paper requests me to determine the Council's admission arrangements for the academic year 2023/24 via a Cabinet Member signing. The full range of reasons for agreeing the decision are set out from para. 4.1 - 4.3.

3. Recommendations

- 3.1. The Cabinet Member is asked:
 - To determine the Council's admission arrangements for the academic year 2023/24 as set out in Appendices 1 – 4 to the report.

¹ <https://www.gov.uk/government/publications/school-admissions-code--2>

- To agree the in-year fair access protocol as set out in Appendix 5 to come into force from 1 March 2022.
- To agree that the determined arrangements for all maintained primary and secondary schools in the borough are published on the Council’s website by 15 March 2022 with an explanation of the right for any person or body, under the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) Regulations 2012 (‘the Regulations’), to object to the Schools Adjudicator in the specified circumstances set out².

4. Reasons for decision

- 4.1. The School Admissions Code 2021 (referred as ‘the Code’) requires all admission authorities to determine admission arrangements every year, even if they have not changed from previous years. Regulation 17 of the Regulations 2012 also requires admission authorities to determine admission arrangements by 28 February in the determination year.
- 4.2. In addition, the Regulations require the admission authority (in this case the local authority) to publish on its website by 15 March in the determination year the determined arrangements of all maintained primary and secondary school and academies in the borough, advising the right to object to the Schools Adjudicator, where it is considered that the arrangement do not comply with the mandatory provisions of the Code.
- 4.3. The Council consults on its admission arrangements annually irrespective of whether or not there is a proposed change to the arrangements. This is to ensure transparency and openness on the contents of the admission arrangements and to allow all stakeholders to make representations which can then be considered as part of the determination of the arrangements.

5. Alternative options considered

- 5.1. This year we did not propose a change to the admission arrangements including the oversubscription criteria for community and VC schools.
- 5.2. While there are other ways admission arrangements can influence the allocation of school places set out in Code (e.g. designated catchment areas, identified feeder schools or giving priority in our oversubscription criteria to children eligible for the early years premium/ pupil premium), none of the above serve the local interest of our families and school communities so no alternative option is being considered at the time of writing this report.

6. Background information

- 6.1. All admissions authorities must have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school.

² Paragraphs 19 – 24 of the Regulations

- 6.2. Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies do not discourage parents from applying for a place for their child.
- 6.3. The Council is the admission authority for community and voluntary controlled schools within the borough and is therefore responsible for determining the admission arrangements for these schools.
- 6.4. Academies, foundation schools and voluntary aided schools are their own admission authority; they must consult on and determine their admission arrangements by 28 February of each year. The Council has a statutory duty to monitor the arrangements determined by own admitting authority schools to ensure compliance with the Code and all relevant legislation and Regulations.
- 6.5. Admission authorities are responsible for admissions and must act in accordance with the Code, the School Admission Appeals Code (2012), other laws relating to admissions, and relevant human rights and equalities legislation.

Consultation

- 6.6. In accordance with paragraph 1.46 of the Code, a six-week consultation (26 November 2021 - 7 January 2022) was carried out to invite representation or objection from all relevant stakeholders. A consultation document and questionnaire were used as the basis of informing stakeholders of the proposed admission arrangements.
- 6.7. A range of modes and methods of communication were used to inform and facilitate feedback from stakeholders regarding the proposal:
 - through the Schools Bulletin which is distributed to the headteacher and chair of governors of schools in the borough
 - through direct emails to head teachers and Chairs of Governors
 - to all children's centres in the borough
 - to all registered nurseries and child minders and any other early years providers
 - on the Council's online primary and secondary admissions page
 - via information in all libraries across the borough
 - to all councillors
 - to both MPs with constituencies in Haringey
 - to the diocesan authorities
 - to neighbouring authorities
 - other groups, bodies, parents and carers as appropriate
- 6.8. Stakeholders were given the opportunity to express their views in writing, via a questionnaire – both electronically and via the hard copy attached to the consultation document, by email and post.

Equality and Diversity Monitoring

- 6.9. As part of the consultation process, respondents were asked to complete an equality and diversity questionnaire, looking at Gender, Age, Ethnicity and Disability. The information collected will help identify any special requirements; promote equality; and improve choice and diversity. This information will only be retained and used for as long as is necessary. Where data is no longer required, it will be destroyed in line with relevant destruction policies and processes.

7. Summary of responses

- 7.1. All responses were received via questionnaire. Overall only a total of 3 completed responses were received in favour of the proposed arrangements and fair access protocol. This can be interpreted to suggest that our arrangements continue to serve the local interest of our families and school communities.
- 7.2. The responses from anonymised individuals are included at Appendix 7b.

Haringey's Fair Access Protocol - Appendix 5

- 7.3. Haringey's fair access protocol ensures unplaced children, especially the most vulnerable, are offered a school place without delay and is a statutory requirement set out in the Code. In using the protocol, Haringey ensures that these children and young people are shared fairly across all Haringey schools and that this process is open and transparent.
- 7.4. All Haringey schools, including schools that are their own admission authority continue to support the principles and approach of the fair access protocol. Paragraph 3 of the fair access protocol sets out that "It is essential to the success of the fair access protocol that all headteachers and governing bodies agree to the aims, principles and procedures and give their fullest support."
- 7.5. The Fair Access Panel is the panel which meets monthly to determine how these young people are admitted to an education roll and to ensure equity across all settings.
- 7.6. As part of the consultation, we asked key stakeholders (headteachers and governing bodies) to review the protocol in order to make an assessment of its effectiveness in line with para. 3.30 (b) of the Code which requires all Local Authorities to assess the effectiveness of fair access protocols on an annual basis. There were several objections received from one source and these are summarised below.
- A) "Haringey need to demonstrate that the usual, reasonable IYAP procedures have been used before a student comes to the Fair Access Panel (FAP). FAP should only be used in exceptional circumstances."

LA response: Children are referred to the fair access panel only if they qualify under the scheme of the protocol and in accordance with the requirements set out at para. 3.17 of the Admissions Code. Our records indicate there have only been a very small number of cases referred to panel under exceptional circumstances since the beginning of the 2021/22 academic year. See more information at para. C) below.

- B) “In addition, 3.19 of the code states that parental views may be sought but should not determine the outcome of the FAP. Parental preference should not be a feature of the FAP, as it leads to unrealistic expectations for parents. (Pt 21: "preferences made and views of parents/carers and the view of the pupil (including religious affiliation)").

LA response: The panel is fully aware that there is no duty to comply with parental preference (the fair access guidance³ produced by the DfE sets this out), but the Code is very clear (para. 3.19) that parents’ views should be taken into account. The protocol already acknowledges that the panel must make a decision on the most appropriate provision in the child’s best interests, irrespective of parental preference. We have found that families are more willing to engage if parental preference has been met and the views of parent/carers and the view of the pupil (including religious affiliation) must always be taken into account in line with statutory guidance. It should also be noted that there are instances where parental preference as expressed, cannot be complied with by the Panel and we work with the family to manage expectations around this.

- C) “Pt 5: Exceptional circumstances as defined by the LA: what evidence can schools reasonably expect to explain Haringey's decision to categorise an application as 'exceptional'? There is concern that the criteria at 5K in the Protocol is used too widely. 'Exceptional' should be used rarely.”

LA response: A decision to categorise an application as ‘exceptional’ is made based on the circumstances of the case and in line with the requirements of the Admissions Code. Our records indicate that since the beginning of the academic year, only a very small number of cases have been referred to the panel under ‘exceptional’ circumstances.

These cases relate predominantly to applications for a Year 10 place where we are not able to meet parental preference and there is a limited number of secondary schools with vacancies. A decision to allocate a school place in an open and transparent forum is favoured by panel members so we can ensure there is fair distribution of pupils, and no single school receives a disproportionate number of Year 10 pupils. The vast majority of applications

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012993/FAP_Guidance.pdf

for a Year 10 place are processed through the normal in-year admissions route. On average, only 1 or 2 are referred to the fair access panel each month because we have not able to meet parental preference.

- D) There is also concern that when a student is placed via the FAP the siblings' link, or any other priority link should not be applied subsequently to that family.

LA response: The current admission arrangements for Haringey give priority to siblings attending the school regardless of which criterion they were admitted under. There are no plans to alter the sibling criterion for children admitted via fair access because it would cause disproportionate disadvantage to these families, many of whom are already highly vulnerable.

- E) "Pt 28: 15 days between notification and admittance does not always allow for the timely sharing of vital information, particularly with reference to social services, both Haringey and other LAs. We also need information from the previous school when the young person is presented to panel. If no information is forthcoming an extension should be granted. This also has implications for the 6 days permitted to return the student to panel."

LA response: The Code sets out that once a child has been allocated a school place via the fair access protocol, arrangements should be made for the child to start at the school **as soon as possible**. Information gathering should not be a barrier to admission and schools must not delay on the basis that they have not received timely information from a previous school or from Social Care. The Code specifically states that admission authorities **must not refuse to admit a child solely because information has not been received from their previous school** (para. 2.9 d).

- F) "Para21. final bullet point (The presumption that a pupil will return to the school where they were previously on roll)... This should be removed. Instead it should say that the individual circumstances of the child should be looked at before this decision is made. It is clear that returning a student is not always in their best interest."

LA response: The panel collectively agreed some years ago to introduce this as a preventative strategy to mitigate against schools off-rolling pupils unlawfully and to date, it has been very effective. It is already recognised in the protocol that it may not be in the best interest for every single pupil to automatically return to their former school. Suitable alternatives to returning to the former school have been sought by panel members in the past

because it has not been appropriate, and this remains a viable option in any discussion on any child.

- G) Year 11 students - are the views of the students taken into account when they come through FAP? Is it the correct time to move schools? Are they made fully aware of the curriculum implications when moving schools?

LA response: Children referred to fair access transferring from other schools are referred because they are not able to continue to travel to their current school because it is considered to be an unreasonable travelling distance (more than 3 miles). This unreasonable distance will have been the result of a house move. These pupils are treated as unplaced and are frequently new arrivals in Haringey from other parts of the UK. Continuing to attend their previous school is not practically feasible, irrespective of curriculum implications. We are aware that Haringey schools work to match curriculum and syllabus requirements for these children, wherever possible.

Next Steps

- 7.7. The Cabinet Member for Early Years, Children and Families is asked to determine the Council's admission arrangements for the academic year 2023/24 as set out in Appendices 1-4.
- 7.8. In addition, the Cabinet Member is recommended to agree the in-year fair access protocol to come into force from 1 March 2022.

8. Contribution to strategic outcomes

- 8.1. Ensuring we have a transparent and objective school admissions process with oversubscription criteria that is reasonable, clear, objective and compliant with all relevant legislation, including equalities legislation, underpins Priority 1 in the Corporate Plan which seeks to enable every child to have the best start in life with access to high quality education.

9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Below are financial, governance and legal and equality comments.

Finance

- 9.1. The Chief Financial Officer has been consulted in the production of this report and confirms that there are no direct financial implications as a result of the consultation proposals or determination of the Council's admission arrangements.

Legal

- 9.2. The Head of Legal and Governance (Monitoring Officer) has been consulted on the contents of this report and comments as follows: The current School Admissions Code ('the Code') came into force in September 2021 and was issued by the Department for Education under section 84 of the School Standards and Framework Act 1998. The Code is to be read alongside the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 ('the Regulations'). In determining its admission arrangements for 2023-2024 the Council has a statutory duty as an admissions authority to act in accordance with the Regulations and with the relevant provisions of the Code. It must also as a result of its duty under section 149 of the Equality Act 2010 have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct which is prohibited by or under that Act, advance equality of opportunity, and foster good relations in relation to persons who share a relevant protected characteristic and persons who do not share it.
- 9.3. Paragraph 15 of the Code states that all schools must have admission arrangements that clearly set out how children will be admitted including the criteria that will be applied if there are more applications than places at the school. As part of determining its admission arrangements, the Council must set an admission number (called the Published Admission Number or PAN) for each school's "relevant age group" i.e. the age group at which pupils are or will normally be admitted to the school.
- 9.4. School admission arrangements are determined by admission authorities. Generally, the admission authority for community and voluntary controlled schools is the local authority. Admission authorities must set ('determine') admission arrangements annually. Generally, where changes are proposed to admission arrangements, the admission authority must first publicly consult on those arrangements. If no changes are made to the admission arrangements, they must be consulted on at least once every 7 years. Consultation must be for a minimum of 6 weeks and must take place between 1 October and 31 January of the school year before those arrangements are to apply (the determination year). Consultation must be undertaken when proposals are still at a formative stage. It must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response, adequate time must be given for this purpose and the product of the consultation must be conscientiously taken into account when the ultimate decision is taken.
- 9.5. In relation to consultation the Council must consult with parents of children between the ages of two and eighteen; other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions; all other admission authorities within the relevant area; whichever of the governing body and the local authority who are not the admission authority; any adjoining neighbouring local authorities where the admission authority is the local authority and in the case of faith schools, the body or person representing the religion or religious denomination. The authority must also for the duration of the consultation publish a copy of the full proposed admission arrangements (including the PAN) on its website together with details to whom comments should be sent and the areas on which comments are not sought.

- 9.6. It is the responsibility of the authority to ensure that admission arrangements are compliant with the Code and relevant legislation. Arrangements mean overall procedures, practices, criteria and supplementary information to be used in deciding on the allocation of school places. In drawing up the arrangements, the authority must ensure that the practices and criteria used are reasonable, fair, clear and objective and comply with the relevant legislation including equalities legislation. Parents should be able to look at the set of arrangements and understand easily how places will be allocated. It is for the authority to decide which criteria would be the most suitable according to local circumstances.
- 9.7. Each year all local authorities must formulate and publish on their website a scheme by 1 January in the relevant determination year, a scheme to co-ordinate admission arrangements for the normal admissions round and late applications for all publicly funded schools within their area. All admission authorities must participate in co-ordination and provide the local authority with the information it needs to co-ordinate admissions by the dates agreed within the scheme. There is no requirement for local authorities to co-ordinate in-year applications, however, Haringey centrally co-ordinates in-year admissions for the vast majority of its schools and has safeguarding protocols in place for tracking pupils admitted directly by some schools that administer their own.
- 9.8. The Code requires that the Council must have a Fair Access Protocol, agreed with the majority of schools in its area, to ensure that, outside the normal admissions round, unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. The Cabinet Members will see the Proposed Fair Access Protocol at Appendix 5.
- 9.9. The proposed admission arrangements for 2023-2024, the proposed co-ordinated scheme, the proposed fair access protocol and the proposed consultation on the proposed admission arrangements for 2023-2024 are in compliance with the Code and the Regulations.

Equality

- 9.10. The Council has a Public Sector Equality Duty under the Equality Act 2010 ('the Act') to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 9.11. The proposed admission arrangements set out in this report comply with the public sector equality duty and ensures that, as an admission authority, the Council's arrangements do not directly or indirectly unfairly disadvantage a child or adult that possesses any of the characteristics protected under sections 4-12 of the Act 2010.
- 9.12. The admission arrangements do not differ materially from the arrangements for previous years, but an EqIA has been undertaken to monitor and assess the impact of any changing trends. Please see Appendix 7 for the EqIA.
- 9.13. The publication of clear admission arrangements for all of our schools (a statutory requirement) ensures that admission to schools is a clear and transparent process and that parents and carers are able to select preferences for a school place with full knowledge of how admission to their local school(s) is determined.
- 9.14. The Head of Admissions and School Organisation in Haringey Council is responsible for monitoring the admission arrangements to ensure compliance. A report is produced annually and sent to the Office of the School's Adjudicator (OSA) which monitors the fairness of the admission arrangements.

10. Use of Appendices

- 10.1. The following appendices support this report:

Appendix 1 - Nursery 2023
Appendix 2 - Reception and Junior 2023
Appendix 3 - Secondary Transfer 2023
Appendix 4 – In Year Admissions 2023
Appendix 5 – Fair Access Protocol March 2022
Appendix 6 - Sixth Form 2023
Appendix 7 - EqIA
Appendix 7b - consultation responses

11. Local Government (Access to Information) Act 1985

- 11.1. This report contains no exempt information.

12. Background Documents

1. The Schools Standards and Framework Act 1998
2. The Education Act 2002
3. The Education and Inspections Act 2006
4. Education and Skills Act 2008
5. The School Admissions Code (September 2021)
6. School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012
7. The School Admissions (Infant Class Sizes) (England) Regulations 2012
8. The School Admissions (Appeals Arrangements) (England) Regulations 2012
9. The Education Act 2011

10. The School Admissions Appeals Code (2012)