

COVID-19 – Department for Education (DfE) guidance on admissions to selective schools

The Department for Education (DfE) has recently published updated guidance for schools that have admission arrangements that admit pupils by implementing selective arrangements.

03 August 2020

Please note: the information contained in this legal update is correct as of the original date of publication.

The Department for Education (DfE) has recently published updated guidance for schools that have admission arrangements that admit pupils by implementing selective arrangements. The guidance will apply to admission authorities responsible for grammar schools, partially-selective schools, schools that select by aptitude or schools which operate banding.

Guidance overview

The guidance sets out that the usual practice of holding selection tests during the early part of the autumn term (September onwards) in the year before entry may well disadvantage children this year, in the absence of formal education since March 2020. The DfE is concerned that this disadvantage will be more keenly felt in disadvantaged groups of children. As such, the DfE suggests that testing procedures are moved to later in the autumn term, and that the practical arrangements for those tests is reviewed to ensure that it complies with other guidance for schools on minimising the risk of transmission of COVID-19.

Given the requirements of the School Admissions Code 2014 on admission authorities to set out testing arrangements within the admission arrangements for the school, it will be necessary to review those arrangements, and consider whether an application needs to be made to vary the admission arrangements to allow compliance with the wider COVID-19 guidance on schools. In addition, it will be important to communicate any changes clearly to parents whose children may be looking for a place at the school.

Recommendations

We would suggest the following steps would be appropriate for admission authorities to consider:

- Review existing arrangements, including guidance for parents, regarding the testing arrangements and update this in line with the new DfE guidance on selection tests and the wider DfE guidance on opening schools.
- Review the admission arrangements for the school. Where the testing arrangements, including the dates of testing and back-up arrangements for further testing due to illness, are set out in detail within the admission arrangements, these should be updated to reflect the proposed new arrangements for this autumn term.
- Notify the statutory consultees of the proposed variations to the admission arrangements. The statutory consultees will be the organisations set out in paragraph 1.44 — other admission authorities in the relevant area, whichever of the local authority or governing board is not the admission authority of the school, the religious body where the school is a faith school, and the governing boards of community and voluntary controlled schools in the relevant area.
- Make an application for variation under paragraph 3.6 School Admissions Code 2014, due to a major change in circumstances (the impact of COVID-19). The application will be made to the ESFA for academies and the Schools Adjudicator for maintained schools.
- The application must be made as soon as possible so that a decision can be made, in order for the updated arrangements to be published on the school's website and provided to the local authority for publication in the composite prospectus.

In reviewing the arrangements, the DfE suggests that the wider COVID-19 guidance will set a useful starting point for ensuring the arrangements are safe. In addition, the guidance suggests that:

- The timing of the testing must consider the wider timescales for admission decisions to be taken in accordance with the co-ordinated scheme and for offers to be made by National Offer Day in 2021.
- The security and integrity of the test papers must be considered where, due to the COVID-19 restrictions on numbers, the testing takes place over a number of sessions or across a number of days.
- Any revised arrangements may need to be as flexible as possible in terms of 'mop up' sessions for children who were unable to sit the test on the dates offered. The guidance suggests consideration must be given to testing at home, if this is seen as necessary (for instance, as a reasonable adjustment for a disabled applicant).

Browne Jacobson's Education team is available to provide advice and support to admission authorities wishing to take steps to review and/or vary their admission arrangements. Please get in touch with your usual contact or contact the team via email:

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