Admissions priority for children adopted from state care outside of England – what it means for admission authorities

The 2021 School Admissions Code (the Code) requires children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted to be given equal first priority in admission arrangements, alongside looked after children (LAC) and children who were previously looked after by English local authorities (PLAC). This advice refers to these children as internationally adopted previously looked after children – "**IAPLAC"**.

The draft Code and associated regulations were laid before Parliament on 13 May 2021. The Code is laid in Parliament for a 40-day period during which both the House of Commons and the House of Lords have the opportunity to review the Code and any Member can pass a motion to not approve it.[1] This 40-day period is expected to expire on 1 July, and provided there is no such motion, the new Code will come into force on 1 September 2021.

What action must admission authorities take in order to comply with the new IAPLAC provision?

Paragraph 1.7 of the new Code will require that highest priority is given to "looked after children and all previously looked after children, including those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted".

This new provision will necessitate variations to determined admission arrangements to take effect from 1 September 2021. Admission authorities will need to vary their admission arrangements for 2021/22 (which would have been determined by 15 February 2020) and their admission arrangements for 2022/23 (which would have been determined by 15 February 2021). Without these variations, admission arrangements that have already been determined will no longer comply with the Code from this date.

Therefore, we expect admission authorities to hold a meeting sometime between now and 31 August 2021 to determine the necessary variations to admission arrangements for 2021/2022 and 2022/2023. Variations will be conditional on the Code passing through its Parliamentary process (i.e. a date on or around 1 July 2021). If any variations are agreed before then, they must be expressed to be conditional on the Code passing through Parliament. All such variations should come into effect on 1 September 2021.

[1] Such a motion would prevent the Code from coming into force.

As these variations will be necessary to comply with a mandatory requirement of the Code, it will not be necessary to refer a variation request to either the schools adjudicator (in respect of maintained schools) or the ESFA (in respect of academies).

How will the new IAPLAC provision affect admissions in 2021/22?

All applications received before 1 September 2021 will have been processed in accordance with the existing (2014) Code, and offers made and places allocated will be unchanged.

Any applications received on or after 1 September 2021 will need to be processed in accordance with the new Code. By way of example, when dealing with in-year applications for the 2021/2022 academic year, children who are determined as being IAPLAC must be given equal highest priority with LAC and PLAC.

Any child who is on a waiting list for a school before 1 September 2021 and meets the definition of an IAPLAC must be ranked again on 1 September 2021 following the new Code coming into force so that the child is given equal highest priority with LAC and PLAC.

How will admission authorities be able to verify that a child is an IAPLAC?

Responsibility for determining whether a child is eligible for IAPLAC priority rests with the admission authority. Subject to ministerial approval, we plan to publish non-statutory guidance on the admission of IAPLAC in time for the new Code coming into force. This guidance will aim to assist and support admission authorities in assessing evidence provided by parents who want their child to be considered under the IAPLAC criterion.

The guidance will recommend that admission authorities should request advice from their Virtual School Head (VSH), if they are in any doubt about the acceptability of evidence provided by the parent of an IAPLAC.

Other references to previously looked after children in the Code

All references to previously looked after children in the Code mean children who were adopted (or subject to child arrangements orders or special guardianship orders) immediately following having been looked after ***as well as*** those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.

This means that the other provisions in the Code which apply to PLAC (for example, in relation to the admission arrangements of schools with a religious character, selective arrangements, and boarding priority) apply to IAPLAC in exactly the same way as they do to PLAC.