Process for Admissions to Mainstream, Special School or Centre for Pupils with a Statement or Educational, Health & Care Plan Key Stage and In Year Admissions

Purpose
The purpose of this paper is to ensure that Head teachers and Governing Bodies understand the legislative framework in relation to SEND admissions and how this is applied in Surrey.

The Surrey Context
We are committed to working with you to ensure all children and young people with Special Educational Needs/Disability are supported to achieve their outcomes by receiving the right support at the right time.

We believe children out of school should be found a school place in as short amount of time as possible. We are keen to work with all schools to support the inclusion of a child or young person in mainstream provision. Where any school has concerns we will work with you to explore these, consider the potential barriers to offering a school place and explore what reasonable adjustments can be made. Where necessary we will provide additional funding support through the Individual Student Pupil Support Budget and advice and support from the area education team. Where it can be clearly demonstrated that reasonable adjustments cannot be made we will support the school in its position i.e. that reasonable adjustments cannot be made and therefore a school place will not be offered.

The documents, The Right Provision at The Right Time and Banding Arrangements set out what arrangements can be made for children and young people in schools both from the school’s own resources and through a Statement or EHCP.

In rare instances where the LA and school do not share the same view of the child’s admission, usually where the school view is that reasonable adjustments cannot be made, then the LA reserves the right to direct a school to admit a child to the parents’ preference of school.
Legislation

The Education Act (1996) explains that all children should be able to be educated in mainstream school with adjustments and individualised approaches. The Equality Act (2010) and the Children and Families Act (2014) further strengthened this position. This later legislation considered reasonable adjustments for people with a Disability and admissions to mainstream school for children with a Statement of Special Educational Needs or a new Education, Health and Care Plan. However, it recognised that for a small number of children more specialist intervention may be required.

The legislation covers the following provisos:

- Where parents make a request for a school the LA must comply with this request unless:
  - it would be unsuitable for the age, ability, aptitude or SEN of the child or young person, or
  - the attendance of the child or young person there would be incompatible with the efficient education of others, or the efficient use of resources

  (Note: “‘others’ is intended to mean the children and young people with whom the child or young person with an EHC plan will directly come into contact on a regular day-to-day basis.” - Code of Practice 9.79. This paragraph also refers to what is meant by efficient education.)

- Where a parent does not specify a preference of a school, section 9.89 of the SEND Code of Practice states that “Mainstream education cannot be refused by a local authority on the grounds that it is not suitable”. Children should therefore be educated in a mainstream school unless it is against the parents’ wishes or it is incompatible with the efficient education of others.

Surrey Application Process

The following application process applies to all mainstream admissions:

- Key Stage Transfers during each November for Years 2, 6 and 10
- in year transfers as a result of an Annual Review that recommends a change of school placement
- children and young people who move in to Surrey with a Statement or EHCP
- children and young people who move from abroad and would require an assessment placement due to evidence of special educational needs.
- A change of parental preference following a new EHCP assessment.
## Detailed Flow Chart for Admissions:

### Start

- **SEND Team - make application**
  - SEN Team make application including:
    - Statement or EHCP - this may be in final or draft form
    - Annual Review report if the request has come via an Annual Review
    - Supporting professional advice

### Within 10 working days

- **School - respond to application**
  - Response should either:
    - state whether they can admit the child and provide a start date or
    - provide evidence considering reasonable adjustments
  - Best practice would be to invite parents and or child to visit the school before responding within 10 working days.

### Within 5 working days

- **SEND Team consider school's response**
  - Decision is made to either:
    a) accept admission/start date and will issue a draft EHCP to name the school of parental preference.
    b) arrange meeting with school to discuss any concerns raised

### Within 5 working days of meeting

- **After the meeting**
  - Decision is made whether to:
    a) accept the schools concerns and ask parents for an alternative preference of school
    b) ask school to formally admit the child.
  - If school do not admit the child after being asked, the final point of the process would be to issue a letter from the Area Education Officer (for the quadrant in which the child lives) directing the school to admit the child by a given date.
**Exceptional circumstances for children and young people**

In exceptional circumstances (i.e. following a change in circumstances or needing to be assessed for an EHC Plan), pupils can be placed in special schools without an EHC plan. Where pupils are to be admitted in these exceptional circumstances this should be with the agreement of the CYP or their parent/carer, the local authority and the head teacher of the special school.

The LA also has a duty to arrange provision on arrival, for children whose parents are Service personnel. This may mean that the Local Authority makes applications for some children when they are not resident in the area and require placement by a specific date.

**Appeals Process for SEND Children**

Parents can request placement at any school and make representation for an independent school. The LA cannot influence a parental request, more often referred to as parental preference. The LA must consider this request and apply to the maintained schools on the parents behalf. This includes consideration of taking pupils over planned admission numbers.

Parents who wish to appeal about school admissions for this group of pupils, do so to the independent Special Educational Needs and Disability Tribunal service run by Her Majesty’s Courts and Tribunal Service and not to the Local Authority’s School Appeal Service. At these Tribunals the legal test for not admitting a child to a mainstream school is set very high and the Judge and expert panel and robustly scrutinise what reasonable adjustments can be made to admit a child to a mainstream school of a parent’s choice. Surrey Local Authority cannot support schools in defending these appeals without clear evidence of why reasonable adjustments cannot be made.

Where the LA accepts the school’s position that reasonable adjustments cannot be made, the LA and school will need to work together to prepare the defence to the appeal. Additionally, the school will need to support the LA in the appeal process and by sending a witness to the appeal.
Answers to typical enquiries regarding admissions:

We cannot meet the child’s needs – As per the legislation and Code of Practice, this is not a reason a mainstream school can give for not admitting a child. Schools need to consider the individual needs of each child and what can be done to remove barriers to inclusion. Attached is a pro-forma that we would encourage schools to use when considering admission requests. The proforma helps schools consider the barriers to inclusion and what can be done to overcome any barriers.

We are/will be over PAN for that year group – For Key Stage Transfer the Pre-16 SEND team link closely with Admissions & Transport to arrange admissions. Places are allocated to SEND children and other priority admissions first. For in year admissions, the legislation requires us to look at what effect placing one more child will have on the other children in the class. Schools are unable to refuse a place on the grounds that they are up to published pupil admission numbers (See Pro-forma).

We have a higher percentage or number of applications than other local schools – We understand that this is an issue that can fluctuate year on year. You must consider each individual child’s needs and what reasonable adjustments can be made. Again you would need to consider what effect placing one more child will have on the other children in the class. The LA must apply for a school place based on parental preference, we cannot influence parental preference by suggesting they consider a school with spaces. (See Pro-forma).

This is not the parental preference of school – Caseworker work with families to ensure that we are aware of their parental preference. However on the rare occasion that we are unaware of, or parents have not expressed a preference, the Local Authority has a duty to make provision and will nominate the closest mainstream school to the home address. The same application process will apply.

There is not enough support in the Statement or Plan – The receiving school can either attend the child’s Annual Review at their current school to hear what the issues are and how you can make reasonable adjustments or if this has not been possible complete the pro-forma attached. In both instances the Local Authority will consider whether the request for additional resources is evidenced and an efficient use of resources. Efficacy of resources is a case that can be made in Tribunal.
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<tr>
<th>Concern (including supporting evidence)</th>
<th>Frequency and severity of concern</th>
<th>Reasonable adjustments/steps to minimise impact and remove barriers to inclusion in school</th>
<th>Cost of steps needed</th>
<th>Possible residual effects of steps if taken</th>
<th>Reasonable adjustments/steps to minimise or remove residual effects</th>
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<td>e.g. CHILD’s inclusion would have a detrimental impact on other vulnerable pupils within the school</td>
<td>(daily/weekly occurrence and severity of impact with evidence)</td>
<td>Consider possible adjustments e.g.: Additionally adult support – how often and to do what? Consideration of tutor and class group Ways to reduce contact with particular students Ways to address and support CHILD in managing his behaviour. Arrangements for break and lunchtimes to address concerns about unstructured times, such as offering a particular room/club to go to. Where provision would already be available within school, this does not need to be costed.</td>
<td>Consider effects on both CHILD and other pupils e.g.: Would a high level of TA support adversely affect CHILD? Would socialisation with peers be affected (for CHILD or the vulnerable peers) by providing an alternative location for break/lunch?</td>
<td>Again, consider possible adjustments to remedy concerns of residual effects: TA would need to support at a distance and only step in when needed. Or, all adults to be aware of possible issues and need to step in if required, rather than using additional TA support. Consider socialisation opportunities/friends hip groups to lunch together.</td>
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