

Admissions to Schools in England and The Armed Forces' Covenant

1. The Armed Forces' (AF) Covenant outlines the Government's aspiration that the Armed Forces Community should face no disadvantage compared to other citizens in the provision of public and commercial services. It sets the tone for Government policy aimed at improving the support available for the Armed Forces Community.
2. The AF Covenant does not seek preferential treatment for the Service community and does not set out law and guidance for public services in respect of provision of Service personnel and their families. The Government's aspirations, as set out in the Covenant, are interpreted into law and guidance through the normal processes and publications available for such purposes.
3. In the case of admissions to state maintained schools in England, the relevant law and guidance is summarised in the School Admissions Code 2012. In the light of the Covenant, there are some specific references to Service children and their parents in the Code but none of these provide any preferential treatment for them.
4. Oversubscription criteria must be used by state maintained schools to decide which children are allocated places and which are not, when there are more applications than places. They must be published in priority order.
5. Briefly, the references are as follows:

(a) Paragraph 1.41: "(State) Boarding schools must give priority in their oversubscription criteria in the following order:

- (a) Looked after children and previously looked after children;
- (b) Children of members of the UK Armed Forces who qualify for Ministry of Defence financial assistance with the cost of boarding school fees;
- (c) Children with a 'boarding need', making it clear what they mean by this."

- **Looked after children** are those in public care. The purpose of the reference to Service children in 1.41(b) above is to try to ensure that as many Service parents as possible are able to place their children, with the support of the Continuity of Education Allowance (CEA), in state boarding schools, should they wish to do so. Whilst this reference prioritises Service children in terms of admissions to state boarding schools, it does guarantee the availability of boarding places for them in such schools or offer any kind of preferential treatment. The School Admissions Code does not apply to schools in the Independent sector.

(b) Paragraph 2.15: "Infant class size – Infant classes (those where the majority of children will reach the age of 5, 6 or 7 during the school year) **must not** contain more than 30 pupils with a single school teacher. Additional children may be admitted under limited exceptional circumstances. These children will remain an 'excepted pupil' for the same time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:

- a) children admitted outside the normal admissions round with statements of special educational needs specifying a school;
- b) looked after children and previously looked after children admitted outside the normal admissions round;
- c) children admitted, after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process;
- d) children admitted after an independent appeals panel upholds an appeal;
- e) children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
- f) **children of UK service personnel admitted outside the normal admissions round;**
- g) children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
- h) children with special educational needs who are normally taught in a special educational needs unit⁴⁵ attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.”

- **Since 1997, it has been unlawful for infant aged classes to contain more than 30 children with one qualified teacher, with a tiny number of permitted exceptions. The purpose of this legislation was to try to give young children starting school the best possible chances of success by limiting class sizes. However, mobile Service families with children needing Key Stage 1 (infant) places in schools have often found the inflexibility of this legislation difficult to live with.**
- **In light of the Covenant and representations made by the MOD's Directorate Children and Young People (DCYP) to the Department for Education (DfE), the Code has been amended to try to strike a balance between the original intentions of the infant class size legislation and the needs of mobile Service families with children requiring Key Stage 1 school places when they move to a new area.**
- **It is important to note that admission authorities are not required to treat all Service children in Key Stage 1 as 'excepted pupils'; they are empowered to do so in respect of only those who are the subjects of in-year applications. In other words, they can but do not have to. Where a number of Service children require in year admission to Key Stage 1 class at the same time, for example, it is inevitable that some admission authorities will be reluctant to see significant increases to infant class sizes over and above the legal limit.**

- Where such applications are rejected, parents will continue to have access, should they wish to, to the independent admission appeals process. Whereas, under the previous Code, appeals panels were forbidden by law to uphold most appeals of this kind, under the current guidance, they now have the discretion to treat the appeal much as they would treat any other appeal for a child in another Key Stage.
- This provision is not intended to and does not offer preferential treatment to Service families. It is hoped, however, that it will provide enough flexibility to lessen the disadvantage experienced by some Service families.

(c) Paragraph 2.18: "Children of UK Service personnel. For families of service personnel with a confirmed posting to their area, or crown servants returning from overseas to live in that area, admission authorities **must**:

- a. Allocate a place in advance of the family arriving in the area provided the application is accompanied by an official letter that declares a relocation date and a Unit postal address or quartering area address when considering the application against their oversubscription criteria. This must include accepting a Unit postal address or quartering area address for a service child. Admission authorities must not refuse a service child a place because the family does not currently live in the area, or reserve blocks of places for these children;
- b. Ensure that arrangements in their area support the Government's commitment to removing disadvantage for service children. Arrangements must be appropriate for the area and be described in the local authority's composite prospectus.

However, whilst the provisions in 3.a. above are well-intentioned, many Service families are now allocated SFA a long way (in terms of the daily school run) from schools that they have applied for using a unit address. Local and other admission authorities are usually willing to accept a unit address, as required by the Code but share the frustration of Service families if the later allocation of a specific SFA address renders the school allocated as an untenable placement. In such circumstances, parents and authorities have to start again from scratch in terms of the application process. Similar problems have arisen when SFA is located close to the unit address but is situated in a neighbouring local authority, where the base is close to a local authority's boundaries. The provision in 3.b. above will not show its impact until composite admissions prospectuses for the school year 2013-2014 are published in the late summer of 2012.

6. Service personnel and their families, as well as professionals involved in managing the admissions process, who have questions or concerns about admissions to schools, anywhere in the UK are advised to contact the Children's Education Advisory Service (CEAS) on 01980 618244 or at: enquiries@ceas.uk.com