

School Admissions Protocol for Separated Parents and Parental Responsibility Disputes

1. Introduction and Scope

This policy sets out the Local Authority's (LA) approach to processing school applications where parents are separated, share custody, or disagree on school preferences. It is designed to ensure the LA acts lawfully, maintains neutrality, and prioritises the child's entitlement to a school place without becoming involved in private family disputes.

2. Legislative Framework

This policy adheres to the following statutory guidance and legislation:

- **The Children Act 1989 (Section 3):** Defines Parental Responsibility (PR) and the rights/duties associated with it.
- **The School Admissions Code 2021:** Statutory guidance for admission authorities, specifically regarding the processing of applications and the determination of home addresses.
- **Data Protection Act 2018 / UK GDPR:** Governing the sharing of data between parents.
- **Education Act 1996 :** Section 19 deals with the Local Authority's duties to children of school age who are not being educated for whatever reason. Section 576 defines "parent"

3. Definition of Parental Responsibility (PR)

For the purpose of school admissions, the LA recognises "parent" as defined in Section 576 of the Education Act 1996. This includes:

- All biological parents, whether they are married or not.
- Any person who, although not a biological parent, has Parental Responsibility for a child or young person (this could be a step-parent, guardian or other relative).
- Any person who, although not a biological parent and does not have PR, has care of a child or young person (having care of a child means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law).

Note: Separation or divorce does not remove PR. Unless a specific Court Order removes PR, all persons with PR retain the legal right to be involved in the school choice.

4. The Application Process: Presumption of Agreement

The School Admissions Code does not require the LA to seek proof of parental agreement for every application.

- **Single Application Requirement:** The LA will only accept one application per child.
- **Implied Consent:** The LA processes applications on the assumption that the applicant has consulted with and obtained agreement from all other holders of Parental Responsibility. It is the applicant's sole responsibility to ensure this agreement is in place.
- **The "Applicant Parent":** The LA will generally correspond with the parent who submitted the application. It is not the LA's duty to seek out the non-applicant parent.

5. Identifying the "Home Address" for Admissions

5.1. The Majority Residence Rule

Where parents live at separate addresses and have joint shared care, the LA will process the application based on the address where the child resides for the **majority of the school week**.

- **Definition:** "Majority of the school week" is defined as the address where the child spends the night for the majority of school nights (Sunday night to Thursday night).
- **Evidence:** The LA reserves the right to request evidence of residency, such as a court order, a signed shared care agreement, or existing school records.

5.2. Equal Shared Care (50/50)

If the child's time is split equally between two addresses (e.g., alternating weeks), the parents must agree on which address to use for the application. If they cannot agree, the LA will use the address of the parent who is in receipt of **Child Benefit** as the tie-breaker. If Child Benefit is not claimed, the address registered with the child's **GP** will be used.

6. Disputes and Dual Applications

The Local Authority (LA) acts neutrally and cannot arbitrate family disputes. However, the LA has a statutory duty to ensure a child is not disadvantaged or left without a school place due to parental disagreement.

6.1. When the LA Becomes Aware of a Dispute

The LA considers a dispute to be active if:

1. We receive two conflicting applications for the same child (Dual Applications).
2. We receive a written objection from a PR holder regarding a pending application.
3. We receive a Court Order conflicting with the application.

6.2. Handling Dual Applications (Cohort Rounds)

If two parents submit separate applications with different preferences or address for the same child, or we are made aware of a dispute regarding school preferences:

1. **Notification:** The LA will notify both parents that a duplicate application / dispute exists.
2. **Opportunity to Resolve:** Parents will be given a strictly limited timeframe to agree on a single application.
3. **Failure to Agree (The Determination Process):** If no agreement is reached by the deadline, the LA will consider it must take over the determination of appropriate schooling under its duties in section 19 Education Act 1996 and will proceed by deciding the school to be attended based on the following hierarchy:
 - a) **Existing Court Order:** If a valid Court Order specifies the address to be used for education or residency, the LA will comply with the Order.
 - b) **Majority Residence:** In the absence of a Court Order, the LA will process the application linked to the address where the child resides for the majority of the school week (see Section 5.1). The LA may require evidence to determine this.
 - c) **The Tie-Breaker:** If residency is proven to be exactly equal (50/50), the LA will process the application from the parent in receipt of Child Benefit. If Child Benefit is not claimed, the address registered with the child's **GP** will be used.

6.3. Handling In-Year Applications

Scenario A:

Child has an existing school place If the child is currently on roll at a school (locally or in another area) and a dispute arises regarding a transfer: The LA will **pause** the application. The child is expected to remain at their current school to ensure educational continuity. The application will only proceed once written agreement from both parents or a Court Order is received.

Scenario B:

Child has NO school place: If two parents submit separate applications with different preferences or address for the same child, or we are made aware of a dispute regarding school preferences:

1. **Notification:** The LA will notify both parents that a duplicate application / dispute exists.
2. **Opportunity to Resolve:** Parents will be given a strictly limited timeframe to agree on a single application.

3. **Failure to Agree (The Determination Process):** If no agreement is reached by the deadline, the LA will consider it must take over the determination of appropriate schooling under its duties in section 19 Education Act 1996 and will proceed by deciding the school to be attended based on the following hierarchy:
- a) **Existing Court Order:** If a valid Court Order specifies the address to be used for education or residency, the LA will comply with the Order.
 - b) **Majority Residence:** In the absence of a Court Order, the LA will process the application linked to the address where the child resides for the majority of the school week (see Section 5.1). The LA may require evidence to determine this.
 - c) **The Tie-Breaker:** If residency is proven to be exactly equal (50/50), the LA will process the application from the parent in receipt of Child Benefit. If Child Benefit is not claimed, the address registered with the child's **GP** will be used.

7. Court Orders

- **Compliance:** The LA will act strictly in accordance with valid Specific Issue Orders or Prohibited Steps Orders provided by the Court.
- **Limitations:** A Standard Child Arrangements Order detailing residence does not inherently grant the resident parent the sole right to determine the school, unless specifically stated.

8. Withdrawal of Offers

In accordance with Paragraph 2.13 of the 2021 School Admissions Code, the LA reserves the right to withdraw an offer of a school place if:

- It is established that the offer was obtained through a fraudulent or intentionally misleading application (e.g., a parent falsely claiming to be the sole resident parent or concealing a known objection from a co-parent to secure a place).

9. Information Sharing and GDPR

- **Applicant Rights:** The applicant is entitled to information regarding the progress of the application.
- **Non-Applicant Rights:** A parent with PR who did not submit the application is generally entitled (unless a court order dictates otherwise) to know which school has been applied for and the outcome, provided they prove their identity and PR status to the LA.
- **Restrictions:** The LA will not disclose the new address or contact details of the applicant parent to the non-applicant parent without consent, particularly where there are safeguarding concerns.