

RULE 2 (Social & Medical) PROCESS

1. Purpose of this document

- 1.1 The purpose of this document is to detail the procedures that apply to the application of Rule 2 of Hertfordshire County Council's admission rules.

2. Admission Rule 2: Children with a particular medical or social reason to attend their preferred school

- 2.1 Hertfordshire County Council's Rule 2 Panel ("the Panel") considers whether an applicant should be prioritised under Rule 2 for community and voluntary-controlled schools. The Panel may also consider cases made for prioritisation under "social/medical" criteria for Academies and other own admitting authority schools, where the Governing Body or Academy Trust has devolved decision making powers to HCC in accordance with their published admission arrangements.
- 2.2 Rule 2 relates to children for whom it can be demonstrated that they have a wholly exceptional medical or social need for attendance at their preferred school *and* that no other school will suffice.
- 2.3 Children who were not looked after **immediately** before being adopted, or made subject of a child arrangements order or special guardianship order can also be considered through the Rule 2 process. Full consideration will be given to points 4.3 and 4.4.

3. Admission Rule 2: Children previously from abroad who were cared for by the state because he or she would not otherwise have been cared for adequately and subsequently adopted.

- 3.1 Applications for children adopted but previously looked after abroad (not by an English or Welsh local authority) will be considered under this rule and accepted if the child's previously looked after status and adoption is confirmed. Hertfordshire's "Virtual School" will be asked to verify all such applications.
- 3.2 The County Council's definition is that given within Section 4 "Educational achievement in England" of The Children & Social Work Act 2017 for "relevant children":
- (a) to have been in state care in a place outside England and Wales because he or she would not otherwise have been cared for adequately, and
 - (b) to have ceased to be in that state care as a result of being adopted.

A child is in "state care" if he or she is in the care of, or accommodated by:

- (a) a public authority,
- (b) a religious organisation, or
- (c) any other organisation the sole or main purpose of which is to benefit society.

- 3.3 All applications are considered individually but a successful application should include evidence that the child was previously cared for by the state abroad because he or she would not otherwise have been cared for adequately and has been subsequently adopted.
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4. Rule 2 Process

- 4.1 A Rule 2 application will only be considered when **at the time of application** independent supporting evidence is provided showing that a child, parent or their carer can demonstrate a wholly exceptional medical or social need for attendance at their preferred school **and** that no other school will suffice.
- 4.2 An application for Rule 2 is made when, by means of application form (online or paper by ticking the appropriate box) or letter where a parent/carers explicitly requests consideration under Rule 2.
- 4.3 An application made by a parent/carers for consideration under Rule 2 must be supported by independent objective evidence for example from a doctor, psychologist, social worker or other professional involved with the child. The evidence must relate specifically and wholly to the school applied for under Rule 2 and must clearly demonstrate why it is the only school that can meet the child's exceptional social and / or medical needs.
- 4.4 If the requested school is not the nearest school to the child's home address, the Panel will want clear reasons why closer schools will not meet the needs of the child.
- 4.5 In exceptional cases relating to a disability and where more than one school in the county can meet the child's specific needs, a clear and compelling case must be made for the "nearest" school with the relevant facilities, environment or location.
- 4.6 Applications that are received without independent objective professional evidence will not be considered and the application will be processed in accordance with the next highest appropriate criterion.
- 4.7 Supporting evidence/information will only be considered by the Panel if it is sent to the Admissions and Transport team **direct**.
- 4.8 Rule 2 applications can only be considered **after** the initial application stage on the following grounds:
 - There has been a **significant and exceptional change of circumstances** which prevented a Rule 2 application being made at the time of the school application being submitted. An example of this could be a newly diagnosed medical condition that was not previously in existence.
 - If new evidence is disclosed which was not reasonably available at the time of the original Rule 2 hearing. An example of this could be a medical condition that has changed significantly since the initial Rule 2 hearing.

The Rule 2 Panel will only consider a case after the initial application stage if one of the above grounds apply. If the Rule 2 Panel accept an exceptional change of circumstances and the new evidence submitted, they will consider the Rule 2 case in its entirety and consideration will be given to points 3.3 and 3.4.

- 4.9 On each occasion that an application for Rule 2 is considered, the Panel will take account of all the previous supporting evidence and related documentation, in addition to the new evidence.
- 4.10 The applicant will be notified of the Panel's decision in writing. Decisions will not be communicated by telephone.
- 4.11 Transfer process (Secondary Transfer or Under 11s) applicants will be notified of the Panel's decision once all Rule 2 applications have been considered. Decision letters

will be sent to parents/carers who applied on-time, within 40 working days of the closing date for applications. Decision letters relating to the first and second rounds of continuing interest will be sent in the week prior to allocations being released.

- 4.12 When an application for Rule 2 is received in respect of an In Year admission, parents/carers will be notified of the outcome of the Panel's decision by letter within 5 working days of the Panel meeting.

5. The Panel

- 5.1 The Panel will meet regularly throughout the year. Meetings will be held on a regular basis to consider In Year applications. The Panel will also meet at key times during the transfer admissions process to consider submissions for on-time applications, late applications, applications from outside of Hertfordshire and submissions made at the first and second round of continuing interest so that a response can be issued in accordance with Paragraphs 3.10 and 3.11 above.
- 5.2 The Panel will comprise a total of three officers from teams within Hertfordshire County Council's Children's Services department. The Panel will be chaired by an experienced manager from the Admissions and Transport team. A list of Officers who may constitute Panels can be found in Appendix 1. Rule 2 panels do not consist of medical or SEN professionals – independent objective evidence, for example from a doctor, psychologist, social worker or other professional involved with the child will be considered by the panel.
- 5.3 Officers will not sit on Panel meetings where they have pre-existing personal knowledge or relationships with the family/child in question, to ensure that the Panel is independent.
- 5.4 The Panel meeting will be clerked by an Admissions and Transport Officer who will record the Panel's deliberations and decision in each case.

6. Decision Making

- 6.1 The Panel will consider all written submissions made by parents/carers including the independent supporting evidence and reach a decision. The Panel will make each decision based on the strength of the evidence provided, although the Panel is not bound to accept recommendations contained within the independent supporting professional evidence.
- 6.2 The decision reached by the Panel will be based on the Panel's view of the needs of the child within an educational context. Where necessary the Panel will ask for clarification from other professionals within the Local Authority, or from schools (including academies), with regard to issues such as site suitability or the availability of special resources within schools and their ability to make reasonable adjustments in accordance with the Equality Act 2010. The Panel can also seek clarification from parents/carers on the case they have made where they feel that this is necessary.
- 6.3 To ensure consistency of decision making the Panel will make reference to this policy and other relevant legislation when considering cases. The Panel are not bound by the decisions of other panels, such as those set up by individual Governing bodies to consider social or medical applications, who may have considered the case in a previous admissions round.

- 6.4 When making their decision the Panel will have regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
- 6.5 The Panel will either uphold or reject an application to be prioritised under Rule 2 having considered the written evidence before it and being mindful of the relevant Equality Act and Human Rights considerations. The Panel will not invite the applicant to reapply where the case is rejected.

7. Consideration of Factors

- 7.1 When making decisions the Panel is mindful that all Hertfordshire schools are able to work with special educational needs and are expected to accommodate severe medical needs. Therefore, it is unlikely that an application on these grounds would be successful unless it can be shown that **only** the preferred school can meet the needs that have been identified. Hertfordshire schools support, and are able to support, children with a wide range of abilities, special needs, disabilities and learning difficulties, from able, gifted and talented pupils to those with multiple and significant disabilities, medical conditions and learning difficulties.
- 7.2 Medical priority will be given to children who have an exceptional illness or disability (for example, restricted mobility) which means that, in the opinion of the Panel, they can only reasonably attend one school. In general, if the Panel feels that the child's needs could reasonably be met by school(s) other than the school for which Rule 2 is being requested, it will reject the application under the Rule 2 criterion and the application will then be processed in accordance with the next highest appropriate criterion.
- 7.3 Social priority will be given to children whose education would, in the opinion of the Panel, be seriously affected if they did not go to a particular school and this is clearly detailed within the independent supporting evidence. The family's circumstances as individuals, and as a whole, will be considered.
- 7.4 An application made solely for continuity of education (for example nursery to reception) is not in itself a consideration under Rule 2.
- 7.5 When making their decision, the Panel will consider whether they are satisfied that the independent supporting evidence shows that a child, parent or their carer can demonstrate a wholly exceptional medical or social need for attendance at their preferred school **and** that no other school will suffice.
- 7.6 The School Admissions Code confirms that only schools designated as having a religious character (commonly known as faith schools) are allowed to prioritise children on the basis of faith-based oversubscription criteria and allocate places by reference to faith. Accordingly, the Panel will not uphold an application under Rule 2 made solely on the grounds of an applicant's religious beliefs.

8. Equalities and Human Rights Implications

- 8.1 The Equality Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share

it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.

- 8.2 The Human Rights Act 1998 confers a right of access to education. This right does not extend to securing a place at a particular school. The Council when exercising its functions will take into account parents' reasons for expressing a preference, though this may not necessarily result in the allocation of a place.

9. Cases considered during the Continuing Interest or In Year stage

- 9.1 If a Rule 2 is upheld for a child in relation to a school where the year group is full, the child will only be admitted to the school in question if a place becomes available and if the child has sufficient priority on the continuing interest list.

10. Appeal Process

- 10.1 The Panel's decision is final and there will be no right of appeal to the County Council against the refusal of a decision made under this Rule. However, all parents will have the right of appeal to an independent admission appeal panel, if their application to a school is unsuccessful.

Appendix 1: Rule 2 Panel Members

The below is the current list of post holders who may constitute panels.

Panel Members

Head of Admissions and Transport*
Strategy and Policy Manager*
Senior Manager (Integration & In Year)*
Transfer and Appeals Manager*
Assistant Admissions & Transport Manager (Secondary)*
Assistant Admissions & Transport Manager (Under 11s)*
Assistant Admissions & Transport Manager (In Year)*
Assistant Admissions & Transport Manager (Appeals)*
SEN Transport Manager*
Central Team Manager*
Lead Officer (In Year)
Lead Officer (Transfer)
Lead Officer (Transport)
Research & Information Officer

* Post holder may also act as the Chair where necessary.

The list of Panel members is not fixed and may change at any point in the academic year.