Guidance on the education of children out of their chronological year group

Surrey County Council

SURREY
COUNTY COUNCIL

1. Introduction

1.1 The purpose of this guidance is to provide parents, schools and Surrey County Council officers with information and advice in respect of requests for children to be educated in either a younger or older year group than that of their chronological age.

1.2 Whilst there is no statutory barrier to children being educated out of their chronological year group, there is no duty to agree such a request and a parent cannot insist their child is educated out of their normal year group. In general, it is the view of the Department for Education and the local authority that most children should be educated in their chronological year group, with the curriculum differentiated as appropriate, and that they should only be educated out of their chronological year group in very limited circumstances.

1.3 This guidance covers out of year group requests for children of **all** ages, whether they are due to start school or are already on roll at a school. It also includes guidance for children with an Education, Health and Care Plan (EHCP), although the process for these is different and it is important that parents liaise with their child's SEND Case Officer.

1.4 This guidance includes information on:

- The reasons why a request might be made.
- Starting school in Reception and summer born children.
- Who is responsible for making the decision.
- Factors for parents to consider when making a request.
- When to make an out of year group request.
- Factors that will be taken into account when making a decision.
- The outcome of the request.
- Important factors to consider following a decision.
- Whether a child will be expected to remain out of year group.
- Appeals and complaints.

1.5 This guidance reflects the requirements of the School Admissions Code 2021 and the Department for Education's non-statutory advice to local authorities and school admission authorities on the admission of summer born children.

1.6 In conjunction with this guidance, parents are also advised to read the Department for Education's advice for parents on summer born children and starting school Summer-born children: school admission.

2. Reasons why a request might be made for a child to be placed out of their chronological year group

2.1 There can be any number of reasons why a parent may feel it is appropriate for their child to be educated out of their chronological year group. The following are some of the most common reasons for parents making a request, although not all will necessarily be agreed (see Section 7 for factors that will be taken into account when making a decision):

i. a child has advanced academic and social skills and may be isolated as a learner in their present peer group;

ii. a child has delayed academic and social skills and may not productively engage in group learning tasks;

iii. a child has delayed emotional development and may have difficulty making relationships with their peer group and may be at risk of isolation;

iv. a child has missed a substantial part of a year through illness or other reasons;

v. a child's physical or medical condition might mean that the child would benefit from being educated in a younger year group;

vi. a child was born prematurely on or before 31 August and their expected date of delivery was after 31 August;

vii. a child was born in the summer (1 April to 31 August) and the parent believes that they would benefit from being educated in a younger year group;

viii. to provide an additional year's experience of mainstream education prior to a special school placement;

ix. a child has recently arrived in the country and has limited English language competence and therefore could be isolated in their chronological year group.

2.2 Some reasons may be particularly prevalent at a time of phase transfer (nursery to Reception, infant to junior, primary to secondary) where the demands of the next phase are perceived as too much for the child to cope with.

3. Starting school in Reception and summer born children

3.1 When is a child required to start school?

3.1.1 Local authorities and schools must provide all children with the opportunity to join a Reception class in the September following their fourth birthday. However, a child does not reach statutory school age until the beginning of the term after they turn five years old.

3.1.2 In recognition that some parents may feel that their child is not ready to start school in the September after they turn four, parents can choose for their child to start Reception part time until they reach statutory school age; or that the date their child is admitted to Reception is deferred until later in the same academic year, but not beyond the start of the summer term of the academic year for which a place has been offered.

3.2 Summer born children

3.2.1 Summer born children are defined as those born between 1 April and 31 August and they reach statutory school age at the start of the autumn term after they turn five years old.

3.2.2 Whilst the majority of parents of summer born children will be happy for their child to start in Reception at the same time as other children their age, some may have concerns about whether their child is ready for school. In such circumstances, parents can choose for their child to start school in Year 1, at statutory school age.

3.2.3 Alternatively, some parents may prefer for their summer born child to be admitted to Reception instead of Year 1, so they would be educated out of their chronological year group. In such cases, the decision that must be made is whether it will be in the child's best interests to start in Reception or to miss Reception and to start in Year 1.

3.2.4 This option is not available to children born in the autumn and spring, including those who were born prematurely in these months, as these children must legally be in school full time in the term after they turn five years old.

4. Who is responsible for making the decision on an out of year group request?

4.1 Responsibility for making the decision on an out of year group request will depend on whether or not the child has an EHCP or whether the parent is applying for their child to start a new school or making a request for a school they are already attending.

4.2 Children without an EHCP

4.2.1 Request for a child who is starting a new school

- Where a parent requests that their child be admitted to a new school out of their chronological year group, that is, where a child is not currently on roll at the school, the admission authority for the school must make the decision. For community and voluntary controlled schools, the admission authority is the local authority for the area where the school is located. For other types of school, known as own admission authority schools, the admission authority will be the school's governing body or academy trust.

- Each request must be considered according to the circumstances of the case and what is in the child's best interests and must also take account of the views of the headteacher. An admission authority is not allowed to take a blanket view on all out of year requests

- Where a child is undergoing statutory assessment and does not yet have a final EHCP, any decision that is made in relation to an out of year group request may be reviewed when the EHCP is finalised.

4.2.2 Request for a child who is already attending a school

Where a child is already on roll at a school, the headteacher of the school will liaise with the parent and decide whether or not it would be in the child's best interests to be placed in a year group different from that of their chronological age, whilst having regard to the other factors set out in section 8.

4.3 Children with an EHCP

4.3.1 Request for a child who is starting a new school

The vast majority of children with an EHCP should have their needs met within their chronological year as their EHCP will clearly identify how and where the child can be best supported. Exceptionally, where a parent of a child with an EHCP requests that their child be admitted to a new school out of their chronological year group, the local authority's SEND Governance Board will be

responsible for the decision. The SEND Governance Board will need to consider whether it is in the child's best interests to be educated out of their chronological year group. Should this be agreed, then the type of provision (in terms of age-related expectations) will be written into section F of the child's EHCP.

4.3.2 Request for a child who is already attending a school

The vast majority of children with an EHCP should have their needs met within their chronological year as their EHCP will clearly identify how and where the child can be best supported. Exceptionally, where a request for education outside of the child's chronological year is made, an annual review must be called ensuring the case officer and all professional's involved are invited to attend or provide reports. The SEND Governance Board will need to consider the views of the school alongside whether it is in the best interests of the child to be educated out of their chronological year group. Should this be agreed, the type of provision in terms of age-related expectations will be written into section F of the child's EHCP.

5. Factors for parents to consider before making an out of year group request

5.1 In all cases, we would strongly advise parents who are considering making a request for their child to be educated out of their chronological year group to talk to the school(s) concerned prior to submitting their request. This gives the parent and the school the opportunity to discuss the provision on offer, how the school can provide a differentiated curriculum to provide for the needs of their child in their correct year group and, where applicable, the child's readiness for school. If the child has an EHCP, the parent should also discuss their concerns with the child's SEND case officer.

5.2 Parents should also consider the following:

a) Placement in a younger year group

i. Children are seldom uniformly delayed in their academic development. Areas of cognitive or physical ability are at risk of not receiving appropriate stimulation if a child is placed in a younger year group and a reduced set of general expectations applies.

ii. Physical, emotional and social expectations may be inappropriate where a child is taught in a younger year group.

iii. Some summer born children may exhibit lower levels of achievement and maturity. However, this may not last and schools are experienced in addressing this for children within their chronological year group through normal differentiation of the curriculum.

iv. Whether a summer born child attends a primary school or an early years setting during the academic year following their fourth birthday, they will receive the Early Years Foundation Stage curriculum in which learning is developed largely through play.

v. At each school transfer (i.e. between Key Stages or schools) a new request for out of chronological year group admission must be made, and the decision whether to maintain a child's placement in a younger year group must be made by the

admission authority for the school, based on the circumstances of the case and what is in the best interests of the child at that time. As such, there is no guarantee that agreement will be given for a child to continue to be educated out of their chronological year group throughout their education. The consequences of attempting to "make up" a year are often very negative for the child and, furthermore they are at risk of missing a statutory entitlement to a national curriculum year programme of study or being denied the ability to enter public examinations.

vi. Where placement in a younger year group is maintained, phase transfers, SATs, GCSEs and school leaving are reached a year or more late. Young people cease to be classed as being 'of statutory school age' on the last Friday of June in the school year in which they turn 16 years of age. Therefore, if they are being educated in a younger year group the school must make provision for them until the date they are due to leave school, even if the young person has been excluded. Alternatively, if a young person required a place at a different school during this time, they would have to negotiate admission and there is no guarantee that a school would admit a student above statutory school age.

vii. Where a young person is educated in a younger year group, they may find that their post 16 entitlement is reduced from 3 years to 2 years which may impact on attainment and opportunity post 16.

b) Placement in an older year group

i. Whilst a child placed a year ahead of their chronological age may, as a consequence, receive a higher level of intellectual stimulation, this will apply across all subject areas and the child's intellectual strengths and achievement may not be universally ahead of age expectation.

ii. In some cases, physical, social and emotional maturity may fail to match exceptional intellectual maturity; in which case a child may present with physical, emotional or social demands which are less effectively catered for in an older year group. The self-esteem and other negative emotional consequences of this may be considerable, particularly during adolescence.

iii. Assuming overall maturity is broadly in line with intellectual maturity, placement a year ahead of chronological age can lead to successful outcomes for the child. However, these outcomes could equally be addressed through an enriched and differentiated curriculum within the same chronological year group.

iv. Once the age shift is made, it is difficult to reverse, necessarily involving the repeat of a National Curriculum Year.

v. At each school transfer the decision whether to maintain the placement in an older year group must be made by the admission authority for the school based on the circumstances of the case and what is in the best interests of the child. As such there is no guarantee that it will continue throughout the child's education and a new request must be made at each school transfer.

vi. Where placement in an older year group is maintained, the consequence is that the child will reach the next phase transfer, SATs or GCSEs, and school leaving point a year or more early. Young people do not cease to be of statutory school age until the last Friday of June in the school year they turn 16 years of age and as such would have to negotiate transfer early to a school sixth form or Further Education college, which would not be guaranteed.

6. When should an out of year group request be made?

6.1 If, after considering the factors above, a parent believes it would be in their child's best interests to be educated out of their chronological year group then they must submit a request along with any relevant information and supporting evidence they may have.

6.2 There is no expectation for a parent to obtain professional evidence they do not already have, however submitting all available evidence and information will help determine whether it would be in the child's best interests to be admitted out of their chronological year group.

6.3 Parents are encouraged to contact their preferred schools prior to making a formal request and schools are encouraged to discuss any concerns with the parent, as this will aid the decision making process (although for community and voluntary controlled schools the decision must be made by the local authority). However, a parent is not obliged to make prior contact with a school and, where they do not, a request must still be considered.

6.4 Children without an EHCP

6.4.1 Applying for a younger year group as part of the normal intake to a school

a. If a parent wishes to request that their child is admitted to a younger year group as part of the normal mainstream intake to a school, they should initially apply for a school place at the normal time i.e. in line with the application dates appropriate for the chronological year group of their child. These dates are:

- Reception entry – apply by 15 January in the academic year the child turns 4.
- Junior entry – apply by 15 January in the academic year the child turns 7.
- Secondary entry – apply by 31 October in the academic year the child turns 11.

b. At the same time, parents should submit their request for their child to be educated out of their chronological year group along with any supporting evidence they may have. They should do this by writing to the Admissions team for the local authority where they live and this will then be shared with each school, as appropriate.

c. Applying at the normal time will ensure that an 'in principle' decision can be made on the out of year group request in good time. This also means, should a request be refused, a parent maintains the option of sending their child to school in their chronological year group, thus ensuring their child does not miss out on accessing a year of education. If the request is agreed 'in principle', this does not guarantee a place at a particular school for the following year, and parents must apply for a place at that time along with all other parents for that cohort.

6.4.2 Applying for an older year group as part of the normal intake to a school

a. If a parent wishes to apply for admission to an older year group as part of the normal mainstream intake to a school, they should apply for a school place along with other parents applying for the same cohort. For example, if a parent wishes their child to be educated one year higher than their child's chronological year group, applications should be made by the following dates:

- Reception entry – Apply by 15 January in the academic year the child turns 3.

- Junior entry – Apply by 15 January in the academic year the child turns 6.
- Secondary entry – Apply by 31 October in the academic year the child turns 10.

b. At the same time parents should submit their request for their child to be educated out of their chronological year group along with any supporting evidence they may have. They should do this by writing to the Admissions team for the local authority where they live and this will then be shared with each school, as appropriate.

c. Applying by the relevant deadline will ensure that, if the request is agreed, school places will not have been filled by other applicants who applied on time.

6.4.3 Request for in year admission

If a parent wishes to apply for admission out of chronological year group at any other time, i.e. not as part of the normal intake to the school, then they should apply for their preferred schools via the in year admission process, no more than 4 weeks prior to anticipated entry. As part of this application, they should include their request for their child to be educated out of their chronological year group along with any supporting evidence they may have.

6.4.4 Request where the child is already on roll at the school

If a parent wishes their child to be transferred to a younger or older year group at the school they currently attend, a request should be made in writing to the headteacher. This request should contain the reasons for requesting out of year group education, along with any supporting evidence they may have.

6.5 Children with an EHCP

6.5.1 Request for admission to a school

If a parent wishes to request that their child is admitted to a new school out of their chronological year group, they should put this in writing to the child's SEND case officer along with any supporting information they have, so that a multi-agency decision can be made at Surrey's SEND Governance Panel as part of finalising the child's EHCP or as part of the child's annual review (where the child with an EHCP is changing school).

6.5.2 Request where the child is already on roll at the school

If a parent wishes their child to be transferred to a younger or older year group at the school they currently attend, a request should be made in writing to the headteacher. This request should contain the reasons for requesting out of year group education, along with any supporting evidence they may have. The headteacher must liaise with the child's SEND case officer and also seek a view from Surrey's Education Psychology Service and any professionals working with the child. A child with an EHCP should not be moved unless an Annual Review has taken place and the recommendation has been upheld by the SEND Governance panel.

7. Factors that will be taken into account when making a decision

7.1 When an out of year group request is received, a decision must be made based on the circumstances of the case and what is in the best interests of the child. The decision must also take account of the views of the headteacher of the school concerned. In each case it is beneficial if the school has already had detailed discussions with the parent and any relevant professionals involved with the child.

7.2 Whilst there is no expectation for a parent to obtain professional evidence they do not already have, submitting all available evidence and information will help determine whether it would be in the child's best interests to be educated out of their chronological year group.

7.3 The responsibility for addressing individual needs generally lies with the school through an appropriately differentiated/enriched curriculum. If this is problematic, schools are expected to seek support from the local authority.

7.4 Placement in a younger year group

For a child to be placed in a younger year group, the following matters should be considered to assess what is in the best interests of the child:

i. The impact on a summer born child of being admitted to year 1 without first having completed Reception (should a parent exercise their right to delay their child's entry to school until the September following their child's fifth birthday).

ii. Whether the child is currently being educated out of their chronological year group;

iii. Whether the child shows a delay in academic development/educational skills, across all subject areas, to an extent that curriculum differentiation (with appropriate SEND resources) is not reasonable;

iv. Whether the child's physical maturity places them in a position of being developmentally different from their peer group;

v. Whether the child shows an equivalent delay in emotional development and social skills, appropriate for a younger peer group;

vi. Whether the child was born prematurely on or before 31 August and whether the expected due date was after 31 August;

vii. Whether there is parental support and agreement;

viii. Where relevant, the child's medical history and any views of a medical professional;

ix. Whether the child has an EHCP and the most recent Annual Review endorses the decision to move the child out of their chronological year group.

7.5 Placement in an older year group

For a child to be placed in an older year group, the following matters should be considered to assess what is in the best interests of the child:

i. Whether the child is currently being educated out of their chronological year group;

ii. Whether the child demonstrates advanced intellectual skills and achievement in all subject areas;

iii. Whether there has been a full exploration of curriculum extension/enrichment possibilities being delivered in the child's correct chronological year group;

iv. Whether the child has physical maturity sufficient to meet the curriculum and play demands of a higher National Curriculum year;

v. Whether the child's emotional and social maturity is sufficient to establish positive peer relationships with an older age group;

vi. Whether there is parental support and agreement;

vii. Whether there is child support and agreement following extensive explanation and counselling as to the implications;

viii. Whether plans to manage phase transfers and examinations have been anticipated or are in place, including the need for an early transfer to a school sixth form or Further Education college where the child is secondary school age.

8 Other factors which may be taken in to account

8.1 Infant Class size legislation

Even when it is agreed that it is in a child's best interests to be educated out of their chronological year group, the request may not be able to be facilitated if it is for a Key Stage 1 class.

Other than a few permitted exceptions, under Infant Class Size legislation a Key Stage 1 class (Reception, Year 1 and Year 2 which contain 5, 6 and 7 year olds) must not contain more than 30 pupils with one teacher. The permitted exceptions are set out in paragraph 2.16 (a)-(h) of the School Admissions Code 2021. Any other child placed out of their chronological year group is not regarded as an exception to Infant Class Size legislation. As such, a school would be unable to admit or move a child out of their chronological year group to a Key Stage 1 year group if it was full, as this would breach the infant class size limit and may result in additional costs for the school by way of the requirement to provide an additional teacher.

8.2 Published admission number

In addition, there is complexity regarding the legal requirement of a school's Published Admission Number (PAN) which, in law, reflects the minimum number of children that should enter or transfer to a school within the relevant age range. The PAN is legally age related. If a Reception class has a PAN of 30 and can only admit 29 children because a child is held down a year in Reception, this in effect takes away the legal right of another child to have a place in that year group as the maximum class size of 30 for Key Stage 1 prevents a class of 31 being created.

8.3 Children recently arrived in the United Kingdom

It is generally recognised within the English school system that children should be placed with their chronological peers. Children with English as an additional language should not, as a rule, be treated any differently. Placing them with their peer group affords them all the same advantages and benefits it offers other children.

However, exceptions may apply if the circumstances of the case would indicate that it would be in the child's best interests to be educated out of their chronological year group, such as when:

- Prior educational experience has been limited or fragmented with the result that formal learning skills (in home language as well as in English) are significantly behind those of chronological peers. The Race Equality and Minority Achievement Service (REMA) can assist schools in investigating the extent of a child's prior educational experience.

- GCSE examinations are imminent and an additional year's preparation would enable the student to perform well.

- Children who are emotionally distressed or traumatised should not, in general, be considered as suitable for placing out of age. This is unlikely to significantly reduce the overall impact of settling in the United Kingdom or overcoming the effect of past experiences. Any proposal to move a student out of year should be discussed with the REMA Service who will assess the student and provide advice based on that assessment.

9. The outcome of the request

9.1 For children without an EHCP

- Where an out of year group request is received for one of Surrey's community or voluntary controlled schools, the decision will be made by Surrey's Admissions team, in liaison with the headteacher of the school. Surrey's Admissions team will respond to the parent regarding the outcome of the request.
- Where an out of year group request is received by Surrey's Admissions team in relation to an own admission authority school, they will forward the request to the appropriate school(s). Own admission authority schools will respond to the parent regarding the outcome of the request and at the same time will also let Surrey's Admissions team know the outcome.
- Some own admission authority schools may receive out of year group requests directly from parents. In such cases the school will respond to the parent regarding the outcome of the request but must also notify Surrey's Admissions team of the request and the outcome.

- Where an out of year group request is made for a child who is already on roll at the school, the headteacher will make the decision and must inform the parent and Surrey's Admissions team of the outcome.

9.1.1 Request agreed

- **Request for a younger year group as part of a normal intake to a school**
  For the normal intake to a school, where a request is agreed for entry to a younger year group, the school preference for the child's correct chronological year group will be automatically withdrawn. The parent will be required to apply for admission at the appropriate time for that school in the requested year group and, at that time, the child's application will be considered alongside other applicants in that year according to the admission criteria for the school.

  If an offer has already been made for the child's correct chronological year group, then this will be withdrawn as offers cannot be carried forward from one academic year to

the next. Parents should ensure they are aware of the application deadlines for the year group in which they will be seeking admission as missing the relevant deadline could result in the child missing out on an offer of a place.

- **Request for an older year group as part of a normal intake to a school**
  For the normal intake to a school, where a request is agreed for entry to an older year group, any preference will continue to be processed for entry to the school. The application will be considered alongside all applicants seeking entry as part of the same admissions round. The parent will be notified of the outcome of their application once it has been processed, usually on the national offer day if the application was made on time.

- **Request for in year admission**
  For in year admissions, where an out of year group request is agreed, the admission authority will consider whether or not a place is available in the selected year group. If a place is available, it will be offered. If a place is not available, the parent will have the opportunity to be placed on the waiting list for the school.

- **Request where the child is already on roll at the school**
  Where an out of year group request is agreed for a child who is already on roll at the school, the headteacher will arrange placement in the agreed year group at the earliest opportunity, in liaison with the parent.

9.1.2 Request declined

- **Request for a younger year group as part of a normal admissions round**
  For the normal intake to a school, where a request is declined for entry to a younger year group, the admission authority must set out their reasons. For summer born children the admission authority must also confirm the year group that it considers will be in the child's best interests to start when the child turns five years old.

  Any preferences named for the child's correct chronological year group will continue to be processed until such time as a place is offered or the parent indicates they wish the preference to be withdrawn.

  If a place is offered, the parent will be notified of this, usually on the national offer day if the application was made on time. The parent can then choose whether to accept or decline the offer, although parents are advised to only decline a place once alternative suitable education provision has been organised.

- **Request for an older year group as part of a normal admissions round**
  For the normal intake to a school, where a request is declined for entry to an older year group, the admission authority must set out their reasons. The parent's preference will be withdrawn and the parent can then reapply for a place the following year for the correct chronological year group.

- **Request for in year admission**
  For in year admissions, where an out of year group request is declined the admission authority must set out their reasons. The admission authority will consider whether or not they can offer a place in the child's correct chronological year group. In some cases the child may not be of an age eligible for entry to the school, such as where a child's chronological year group is Year 7 and the parent is seeking entry to a primary school in Year 6. In such cases the school would be unable to consider the child's

admission in the correct year group and the school has no further duty to process an application for the school.

- **Request where the child is already on roll at the school**
  Where an out of year group request is declined for a child who is already on roll at the school, the child will remain within their correct chronological year group.

9.2 For children with an EHCP

- Where an out of year group request is received for a child with an EHCP, a multi-agency decision will be made at Surrey's SEND Governance Panel and the SEND case officer will let the parent know the outcome of the request.

9.2.1 Request agreed

Where the child is not yet statutory school age and a request is agreed for entry to a younger year group, the EHCP will be finalised naming the school that the child will attend a mainstream nursery setting, with access to Early Intervention Funding. The child's EHCP will reviewed for the following year to determine which school the child will attend.

Where the child is already of statutory school age, the EHCP will be finalised naming the school that they will attend and indicating that they will be educated out of their chronological year.

9.2.2 Request declined

Where a request is declined for entry to a younger year group, the child's EHCP will be finalised naming the school that the child will attend. The parent must be advised in writing of the reasons for the decision and, for summer born children, the outcome must also confirm the year group that it considers will be in the child's best interests to start when the child turns five years old.

10. Important factors to consider following a decision

10.1 Agreement to consider a child for admission out of their chronological year group does not guarantee an offer of a place at a particular school as an offer will be dependent on whether a vacancy exists and whether other children have a higher priority for a place when ranked against a school's oversubscription criteria.

10.2 Decisions are made individually for each school. There is no guarantee that different admission authorities will come to the same decision regarding a request and one admission authority cannot be required to honour a decision made by another.

10.3 Where admission to a younger year group is sought, parents should carefully consider the likelihood of gaining a place at their preferred school should a request be agreed and their application for admission at the correct time is withdrawn. If a child is not able to secure a place at their preferred school in the following year, there is no guarantee that other schools will accept an out of year group application at that time.

10.4 Where it is agreed to place a child out of their chronological year group, this will not normally be for more than a single National Curriculum year. In the case of vertically grouped classes this will apply to the age range of the class rather than a single chronological age.

10.5 Where it is agreed to place a child out of their chronological year group and subsequently the SEND Governance panel decide specialist provision is required, the child will usually return to their correct chronological year for education.

11. Will a child be expected to remain out of their chronological year group?

11.1 Where it is deemed in the best interests of a child, a school may seek to move a child back to their chronological year group. In a few cases it may be deemed appropriate to further decelerate/accelerate a child's year group. Where it is planned for a child to return to their correct chronological year group, this should be managed within a Key Stage i.e. at the end of a Key Stage the child should be placed within his or her chronological year group.

11.2 Children with an EHCP who are educated in a younger year group should have transition reviews at their appropriate chronological age, for example, for a Year 5 child placed in Year 4, this would be whilst the child was in Year 4 and not a year later. Where a child with an EHCP transfers from mainstream to specialist provision, they will usually be expected to return to their chronological year group.

11.3 However, in many cases it will be appropriate for a child to remain educated out of chronological year group. In these cases it is not possible to plan comprehensively for each school transfer as in each case it will be subject to:

- a separate out of year group decision being made by the admission authority for the new school, an application being submitted by the parent and a place being offered according to the school's admission criteria; or
- a child's EHCP

11.4 At each school transfer, the decision regarding entry out of chronological year group must be considered by the admission authority for the new school. However Surrey's expectation is, where a child is currently educated out of their chronological year group within the English educational system, the child should remain out of year group unless there is any significant evidence or information to the contrary.

12. Appeals and complaints

12.1 Parents who are refused a place at a school for which they have applied have the right of appeal to an independent admission appeal panel. As the purpose of the appeals process is to consider whether a child should be admitted to a particular school, parents do not have a right of appeal if they have been offered a place and it is not in the year group they would like.

12.2 However, a parent may make a complaint about:

a) an admission authority's decision not to admit a child without an EHCP out of their chronological year group if they are unhappy about how the decision was made:

- in the case of academies, free schools and foundation, trust and voluntary aided schools parents may make a complaint using the school's complaints procedure as the governing body or academy trust will be the admission authority.
- in the case of community and voluntary controlled schools parents may make a complaint to the local authority as the admission authority.

b) A local authority's decision not to agree for a child with an EHCP to be admitted out of their chronological year group if they are unhappy about how the decision was made or through EHCP Tribunal against the school/provision named.

c) a headteacher's decision on whether or not to place a child without an EHCP, who is already on roll at a school, in a year group different to that of their chronological age. In all such cases parents may make a complaint using the school's complaints procedure.

11.3 If a parent is unhappy with the way a local authority or a maintained school has handled their complaint, the parent may refer their complaint to the Local Government and Social Care Ombudsman.

11.4 If a parent is unhappy with the way an academy or free school has handled their complaint, they may complain to the Education Funding Agency who will consider the complaint on behalf of the Secretary of State for Education.