

The new 11+ exam: Six questions Bucks County Council must answer

1. In what ways is Buckinghamshire County Council (BCC) seeking to fulfil their legal responsibilities in respect of the new 11+ exam?

Local authorities have a range of specific statutory duties relating to education. These duties (see appendix) are considerably more extensive than BCC implies when they deny responsibility for the new 11+ exam in Bucks. The specific responsibilities that are directly engaged by selection in general and the new exam in particular are:

- promoting the fulfilment of the learning potential of every child
- ensuring fair access to opportunity for education and training
- providing sufficient school places, which is only fulfilled if they 'provide for all pupils the opportunity of appropriate education'
- securing diversity in provision of schools
- increasing opportunities for parental choice

2. Is BCC satisfied that the 11+ exam does not discriminate against certain groups of children, and on what evidence?

Recent data released by The Buckinghamshire Grammar Schools (TBGS), BCC and eight Wycombe secondary schools shows that the new 11+ exam has made no impact on the following damaging trends:

- much lower pass rates for children on Free School Meals
- much lower pass rates for children of Pakistani and Black Caribbean heritage
- much higher pass rates for children living in more affluent districts
- much higher pass rates for children at private schools

3. If BCC have any concerns about whether the new 11+ exam disadvantages children from some backgrounds, what steps have they taken to fulfil their legal duty to report these concerns to the School Adjudicator?

Paragraph 1.8 of the School Admissions Code states:

Admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.

Paragraph 1.31 states:

Tests for all forms of selection must be clear, objective, and give an accurate reflection of the child's ability or aptitude, irrespective of sex, race, or disability.

Paragraph 3.2 states:

Local authorities must refer an objection to the Schools Adjudicator if they are of the view or suspect that the admissions arrangements that have been determined by other admissions authorities are unlawful.

4. If BCC have any concerns about whether the new 11+ exam disadvantages children from some backgrounds, what steps are they taking to fulfil their responsibilities under the Public Sector Equality Duty?

The Government offers the following guidance on the Public Sector Equality Duty:

It requires public bodies to have due regard to the need to advance equality of opportunity between people who share a protected characteristic and people who do not share it. This means that consideration of equality issues must influence the decisions reached by public bodies – such as [...] how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others.

This has direct relevance for BCC a) as a delivery partner for the 11+ exam, b) in terms of their duties under the School Admissions Code, and c) in respect of their wider education responsibilities (see 1. above).

5. How did BCC act on their concerns (in their Due Diligence report on the new 11+ exam provider, CEM) that the proposed new exam would discriminate against certain groups of children?

BCC officers raised clear concerns in the Due Diligence report on CEM. Yet BCC do not appear to have taken any steps to follow up these concerns or to ensure that they were properly addressed. It is difficult to understand why BCC undertook a due diligence exercise if they did not intend to act on their own analysis.

6. What assessment have BCC made of the impacts of the sharp rise in the number of non-Bucks children sitting and passing the 11+ test, particularly in respect of BCC's duty to provide adequate and appropriate school places?

In 2014, there was a steep rise in the number of non-Bucks children sitting the 11+ exam. Because these children achieved higher than average scores, they raised where the pass boundary (121) fell, effectively squeezing out local children who may have passed the exam in previous years. As more grammar school places are taken by non-Bucks children, BCC must find more upper school places for the local children who have missed out.

The 'Who Benefits' report provides a full summary of the official 2014 11+ exam results and can be accessed, along with all the data, at <http://bit.ly/bucksselection>

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Appendix

Local authorities' statutory responsibilities in respect of education

Section 13 of the Education Act 1996 provides for local authorities' general responsibility for education:

13 General responsibility for education.

(1) A local education authority shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education and secondary education are available to meet the needs of the population of their area.

The Apprenticeships, Skills, Children and Learning Act 2009 amended section 13A of the Education Act as follows:

13A Duty to promote high standards and fulfilment of potential

(1) A local education authority in England must ensure that their relevant education functions and their relevant training functions are (so far as they are capable of being so exercised) exercised by the authority with a view to—

(a) promoting high standards,

(b) ensuring fair access to opportunity for education and training, and

(c) promoting the fulfilment of learning potential by every person to whom this subsection applies.

Section 14 of the Education Act 1996 requires local authorities' to provide sufficient school places, which must 'provide for all pupils the opportunity of appropriate education':

14 Functions in respect of provision of primary and secondary schools.

(1) A local education authority shall secure that sufficient schools for providing—

(a) primary education, and

(b) education that is secondary education by virtue of section 2(2)(a), are available for their area.

(2) The schools available for an area shall not be regarded as sufficient for the purposes of subsection (1) unless they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education.

The Education and Inspections Act 2006 extended local authorities' responsibilities to provide sufficient school places as follows:

3A) A local education authority in England shall exercise their functions under this section with a view to—

(a) securing diversity in the provision of schools, and

(b) increasing opportunities for parental choice.