

# **TRANSFER 2010 GUIDANCE**

## **REPORT ON RESPONSES TO CONSULTATION**

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## **Foreword by the Minister for Education**

On 2 February 2010 the Department of Education published, for consultation, its Transfer 2010 Guidance. The Department received 3,195 responses to the consultation and I am very grateful to all of those individuals and bodies who took the time to provide these. This report summarises these responses to the consultation and seeks to cover the range of views expressed by education partners, political parties, other interested bodies and the general public.

The Transfer 2010 Guidance provided the following objectives for post-primary admissions:

- that admissions decisions are fair and give each child the opportunity to reach his/her full potential;
- that the overall arrangements for transfer, and within that the respective roles of the Department, the ELBs/ESA, primary schools and post-primary schools' Boards of Governors are clear and understood;
- that post-primary schools' Boards of Governors achieve robust and accurate admissions decisions.

I am confident that the final Transfer 2010 Guidance, informed by the responses summarised in this report, and also the responses received to the consultation on an Equality Impact Assessment of the Guidance, will fulfil these objectives.

**CAITRÍONA RUANE MLA**  
**Minister for Education**

# CHAPTER 1

## INTRODUCTION

### **Background to Transfer 2010 Guidance Consultation**

- 1.1 The Minister for Education sought to build a consensus around proposals for a legislative framework for post-primary transfer, but was unable to gain the political agreement necessary. In the absence of a legislative framework the Department of Education published, on 2 February 2009, Transfer 2010 Guidance for the operation of the process of admitting pupils to post-primary schools in September 2010. This Transfer 2010 Guidance was issued under Article 16B of the Education (NI) Order 1997 – as inserted by Article 30 of the Education (NI) Order 2006. This Article requires all post-primary schools to “have regard” to guidance issued under it.
- 1.2 Paragraphs 16-28 of the Transfer 2010 Guidance were subject to consultation until 27 April 2009. These paragraphs described recommended admissions criteria for use by all post-primary schools for Transfer 2010, and strongly recommended that schools do not use academic admissions criteria. For schools proposing to use academic admissions criteria, the Guidance highlighted the significance of procedures previously in place to support the Transfer Test prior to its abolition.
- 1.3 The commencement of a period of consultation received widespread publicity through the reporting of the Minister’s appearance before the Assembly on 2 February 2009, and was followed up by direct communication with education partners, with all P6 parents and placement of the Guidance on the Department’s website.
- 1.4 3,195 responses to the consultation were received. It was characterised by a large volume (3,053) of responses from the general public

expressing support for the ending of academic selection and for the changes heralded by the Transfer 2010 Guidance. These accounted for over 95% of the total responses received. There were also 32 responses from the general public objecting to the changes heralded by the Transfer 2010 Guidance. For the purposes of this summary report these “for” and “against” responses are summarised within the views of the general public – at the start of each of the following chapters. Three responses from the general public were neither explicitly supportive of, nor opposed to, the Guidance.

- 1.5 Of the remaining 107 responses, 57 were received from post-primary schools (50 grammar and 7 secondary), with 5 responses received from primary schools and 1 from an Alternative Education Provider. Responses were also received from a number of education partners, political parties and other interested bodies.
- 1.6 Two youth organisations, **Include Youth** and the **NI Youth Forum** submitted responses that were the product of their own consultative exercise on the Transfer 2010 Guidance conducted with children and young people. **Include Youth** promotes best practice with young people in need or at risk and drew its response from sessions with young people (aged 15-21) from across the organisation, the majority of whom had had “negative educational experiences”. The **NI Youth Forum** is a youth-led organisation dedicated to promoting the voice of young people. It took the views of 317 young people on the Transfer 2010 Guidance over a period of 4 weeks: 142 aged between 5 and 25 (including a balance of grammar and secondary pupils) took part in focus group sessions and 175 provided questionnaire responses. A response was also received from the **Parenting Forum NI**. With over 1,000 members made up of individual parents and groups, it provides a platform for the voice of parents to be heard.

## **Analysis of Consultation Responses**

- 1.7 The draft Transfer 2010 Guidance will be used by those who sit on school Boards of Governors who bear responsibility for the setting of admissions criteria, and those who work within education bodies involved in administering the transfer process. It is, however, recognised as being of interest to a much wider audience – hence, for instance, the issue of a letter by the Minister for Education to the parents of all P6 children informing them about the Guidance.
- 1.8 The analysis below indicates broadly the views expressed on different sides of the argument over transfer and, in doing so, recognises the efforts made by individuals to have their voice heard.
- 1.9 This summary report places the emphasis on arguments put forward in support of or in opposition to the recommendations contained within the Guidance. This approach is consistent with previous consultations, including the Department’s 2005 consultation on proposed admissions criteria. The summary report of the 2005 consultation made reference to a code of practice on written consultation which states that “analysing responses is never simply a matter of counting votes .. and particular attention may ... need to be given to the views of representative bodies ... and other organisations representing groups especially affected”.
- 1.10 Every effort has been made to ensure that the views of respondents have been summarised accurately. The form in which the Transfer 2010 Guidance sought responses was relatively open (there was, for instance, no questionnaire for respondents to use), but in analysing the responses we have found that they lend themselves to being grouped into the following five Chapters:
- **(Chapter 2) The Legal Status of the Guidance:** whilst consultation was on the content of the “recommendations” part of the Guidance document (Paragraphs 16-28), many respondents have commented on the legal status or “force” of these recommendations, often in respect of their content. Whilst this status was set out in Paragraphs 1-2 of the Guidance, this status is clearly an important condition of

the content of Paragraphs 16-28 and so was considered necessary to record in this summary.

- **(Chapter 3) The Recommendation and Advice on Academic Admissions Criteria:** the Guidance recommended that schools do not use academic admissions criteria. It also advised those that still intended to do so of some of the issues they will face. This led to many responses that stated their basic position on the matter and/or considered the operational issues presented (in the absence of a state-provided assessment mechanism for academic transfer) by independent Entrance Tests.
- **(Chapter 4) The Recommendation of the Free School Meals Entitlement Criterion**
- **(Chapter 5) The Other Recommended Criteria**
- **(Chapter 6) Comments on Other Related Subjects**

### **What Next?**

1.11 Consultation on an Equality Impact Assessment (EQIA) of the Transfer 2010 Guidance continues until 4 June 2009. On completion of an analysis of responses to that consultation, Transfer 2010 Guidance will be finalised and published.

## CHAPTER 2

### THE LEGAL STATUS OF TRANSFER 2010 GUIDANCE

2.1 The Transfer 2010 Guidance, issued by the Department of Education (DE) for consultation on 2 February 2009, described its basis in legislation in Paragraphs 1 and 2:

**“This guidance is issued by the Department of Education under Article 16B of the Education Order (NI), 1997 – as amended by Article 30 of the Education Order (NI), 2006 – which states:**

***‘(1) The Department may issue, and from time to time, revise such guidance as it thinks appropriate in respect of the arrangements for the admission of pupils to grant-aided schools and the discharge by:***

- i. Boards;***
- ii. The Boards of Governors of grant-aided schools;***
- iii. Appeal tribunals constituted in accordance with regulations under Article 15(8); and***
- iv. The body established by regulations under Article 16A(6),***

***of their respective functions under this part.***

***(2) The guidance may in particular set out aims, objectives and other matters in relation to the discharge of those functions.***

***(3) It shall be the duty of***

- v. Each of the bodies mentioned in Paragraph (1); and***
- vi. Any other person exercising any function for***



***the purposes of the discharge by such a body  
of functions under this part,  
to have regard to any relevant guidance for the time being in  
force under this Article.***

Primary schools, the principals and Boards of Governors of post-primary schools and the Education and Library Boards (ELBs)/Education and Skills Authority (ESA) will, therefore, be required to “have regard to” this guidance when issued. Excepted from this, of course, will be the parts of this guidance describing duties and responsibilities of post-primary school Boards of Governors and the ELBs/ESA that have a legislative basis in their own right.”

2.2 The legal status of the Guidance and of its contents was the focus of comment in many consultation responses. The vast majority of the responses of the **general public** welcomed the Guidance and to the extent that some were disappointed at, and apportioned blame for, the absence of agreement and legislation on post-primary admissions for transfer, the following quotations are representative of many:

- “I am frustrated that there has been no political agreement on this issue. Even though the Minister brought forward compromise proposals, the DUP and others failed to even consider these and instead maintained a fix position”.
- “the current rejectionists are doing nothing but maintaining their own interests and causing confusion for parents. I would urge the DUP and other parties to put their party politics to one side and realise that the Minister’s proposals will create equality”.
- “the Minister’s attempts to gain consensus failed because some in the grammar sector and the unionist parties seem intent on

protecting privilege for a few instead of considering the future of all our children”.

- “I am deeply disappointed that there has been no political agreement on this matter but urge the Minister to proceed with the new arrangements and not be pressurised by a minority of academics who are clearly out of step with those who want to transform our outdated and discriminatory education system”.

2.3 Of the small minority of the **general public** responses that did not welcome the Guidance, nearly all stated that “it is of great concern to all parents that the Minister is watching an un-regulated system develop before her eyes and seems unwilling to take leadership and manage the situation. Meanwhile our children face an unregulated system and the mayhem of multiple exams”.

2.4 The comments from **schools** on the legal status of the Guidance, made by a majority of grammar schools and a small number of primary and secondary schools, were generally critical with most of these stating that Guidance, as opposed to regulation (if only as an interim resolution), was unacceptable or inadequate or not preferable. It was also often stressed that the Guidance in its current form was not fully developed and needed to issue in final form in order to be meaningful. A common theme in a number of responses from grammar schools was that final Guidance would issue too late. Some argued that the Guidance suffered from being more concerned with providing a message on academic selection than with providing a clear basis for transfer.

2.5 Many grammar respondents, as Chapter 3 outlines, stated that they would depart from the Guidance on the use of academic criteria, with one Board of Governors stating, for instance, that they had been “advised that such guidance does not have the force of a legal imperative”. Some secondary respondents stated an expectation that grammar schools would “ignore” the Guidance and asked how compliant

schools may be compensated (through funding for example) for, what was considered to be, the resultant disruption and inequality. An Alternative Education Provider also noted the need for Guidance that was enforceable.

- 2.6 The five **Education and Library Boards (ELBs)** were highly critical of the status of the Guidance, considering it and the legal position it described to be contradictory, insofar as the Guidance stated that academic admissions criteria were not prohibited but also stated that they were not recommended. The **Belfast, Southern, North-Eastern and Western Education and Library Boards (BELB, SELB, NEELB, WELB)** considered that the resultant lack of clarity of the legal position for Transfer 2010 could mean “legal challenges and substantial cost and all five **ELBs** described the Guidance as “fraught with administrative and litigious perils”.
- 2.7 The **SEELB** stated that “substituting non-statutory Guidance for regulations just increases uncertainty because school authorities remain uncertain regarding the status of such Guidance”. Both **SEELB** and **SELB** felt that the term “have regard to” required definition that should be clear and unambiguous. The Guidance, they argued, should detail the process that a school must follow to demonstrate that it has had due regard to the Guidance.
- 2.8 **WELB** urged that primary and post-primary school Boards of Governors should, by September 2009, receive training from Board solicitors to help “protect them from potential legal challenges, and **WELB** will be providing this training in September 2009”. Both they and **SELB** suggested the importance of post-primary Boards of Governors recording in their minutes their consideration of the Transfer 2010 Guidance, with **SELB** particularly stressing the need for this if Boards of Governors are departing from the Guidance.

2.9 All five **ELBs** had concerns about their role in relation to Transfer 2010 operated according to the Guidance: “Boards are presently not in a position to provide advice on the legality of criteria drawn up under the new guidance and consideration needs to be given to who will provide advice to Governors”. **NEELB** asked if they would be obliged to recommend to their schools that they follow the Guidance, or whether they would be obliged to require their schools to follow the Guidance? The **SELB** asked: “Do we only give advice etc on the published Guidance even though it would appear that a substantial number of schools will not be following this Guidance or do we, acting in the interests of parents, assist those non-compliant schools, or, do we acting in the interests of our employers, refuse to assist schools that have not complied with the Guidance”? The **SELB** and **NEELB** also asked what the position of various parties (DE, Boards, Boards of Governors) would be in relation to the costs arising from Judicial Reviews against schools either following or not following the Guidance, and would any ELB liability be different for controlled schools and other maintained schools/voluntary grammar schools?

2.10 In relation to their role in Transfer 2010, all five **ELBS** made the following comment: “as the officers responsible for the implementation of any new arrangements we are morally obliged to co-ordinate all the different strands into a structured system with a view to ensuring that no child is disadvantaged and that parents have sufficient time available to consider the various options and make informed choices for their children”. The **Association of NI Education and Library Boards** noted this comment and endorsed it.

2.11 **BELB**, **SEELB** and **NEELB** commented that a system governed by Guidance rather than regulation will inevitably favour the children of parents who are better equipped to access information and navigate their way through an un-regulated system: “the situation is potentially damaging for the whole education community but more importantly it is totally inequitable for children”.

2.12 The **BELB, SEELB, NEELB, SELB** and **WELB** all offered, as their conclusion, the following assessment of the risks of Transfer 2010:

- “An inability to continue to provide a high quality valued service;
- An inability to have the necessary arrangements in place in an adequate timescale (including not having information available for parents on the admissions procedure as required under statute);
- Post-primary children being unplaced in September 2010;
- An unmanageable number of appeals to be heard in summer 2010;
- A potential increase in the number of Judicial Reviews.”

**BELB, SEELB, NEELB, SELB** urged DE to issue the final Guidance as soon as possible. **SEELB** noted that Boards of Governors may have very little time to have regard to the final Guidance.

2.13 The **ANIELB** asked whether the Guidance may be deemed to be direction in any subsequent legal challenge. It stated concerns regarding “unregulated admissions” including: increased emotional stress for parents and children, inequitable arrangements for children (particularly socially disadvantaged children), potential damage for the whole education community and new administrative burdens on parents, Transfer Officers and principals. It too commented on the ELB role in Transfer 2010: “the association is concerned that teachers and governing bodies will become potentially more vulnerable in this unregulated system without adequate guidance which places our professional staff and governing bodies in potential conflict both with the Department of Education and with their employer”. The **ANIELB** noted the objectives for the admissions system provided in the Guidance but stated that they did not believe that an unregulated system could deliver them.

2.14 The **Council for Catholic Maintained Schools (CCMS)** stated that in the absence of a regulatory basis primary schools will find it difficult to reconcile parents' expectations with DE policy, especially in relation to the delivery of the Revised Curriculum. **CCMS** was concerned that Principals and Governors face "legal confusion in dealing with admissions in the absence of clear legislation". **CCMS** was also concerned that some post-primary schools were now "empowered" to operate their own admissions process without regulation, which will lead to uncertainty and confusion in the primary sector and place teachers and principals in the "invidious position" of mediating between "formal advice from the Department of Education, Employing Authorities and Unions and the pressure of parents ...". **CCMS** felt that in the absence of political agreement the aims and objectives as set out in the Guidance were unlikely to be realised.

2.15 The **NI Council for Integrated Education (NICIE)** stated their disappointment at what they described as a "selective but unregulated path" that was not child-centred, and at the inability for a political consensus to have been reached. They recorded, in particular, their concern at the prospect of different Entrance Tests being operated by denominational and non-denominational grammar schools and feared possible litigation that could compound the social inequalities of Transfer.

2.16 The **General Teaching Council for NI (GTCNI)** expressed "the gravest concern that political leaders in the north of Ireland have been unable to reach a consensus on the way forward in this crucial area of education policy". In particular the **GTCNI** noted, based on media reports, "that not all post-primary schools appear to be willing to apply the recommended criteria....the inability to reach a political consensus and thereby establish a statutory basis for the criteria may well undermine their application and acceptance by all post-primary schools". The **GTCNI** also felt that "teachers, especially those in the primary sector, could be put in a difficult position in their relationship with parents". **GTCNI** urged

a resolution on this issue through the de-politicisation of the subject and a wider approach.

2.17 The **Association of Teachers and Lecturers (ATL)** was generally supportive of the contents of the Guidance but felt that, as Boards of Governors “merely” had to have regard to the Guidance, it would not be wholly effective and it represented a failure of “the north of Ireland system of government”. They were particularly concerned about the potential exposure of schools and teachers to litigation, the danger of which, they felt, was “more acute” in “an unregulated system”.

2.18 The **National Association of Schoolmasters and Union of Women Teachers (NASUWT)**, supported the aims and objectives of the Guidance but stated that the Guidance does not “meet the aspirations set out... admissions should be ... managed within a national framework ... [a] comprehensive and fit for purpose Code of Practice supported by appropriate legislation”. **NASUWT** was also concerned about how teachers and principals in primary schools may face competing pressures due to DE’s failure to provide legislation and feared “growth in complaints, dispute appeals, and possible judicial challenges relating to admissions decisions.

2.19 The **Ulster Teachers Union (UTU)** stated its “total endorsement” of the Minister for Education’s commitment to end academic selection and urged politicians to reach a compromise that would avoid Entrance Tests.

2.20 The response from **Include Youth** was generally supportive of the Guidance’s position on academic selection but expressed disappointment and dissatisfaction at the proposed arrangements for Transfer 2010 – in particular the prospect of multiple tests: “in the midst of political wrangling, children’s best interests have been overlooked”. The **NI Youth Forum** recorded that many participants “experienced a lack of clarity in relation to the new system of Transfer”.

- 2.21 The response from the **Parenting Forum NI** stated its belief that academic selection “may not be in the best interests of children and young people when being used as a means of selection for pupils for transfer from primary to post primary education” – but was critical of the force of the Guidance: “the fact that the Department of Education’s Guidance Notes do not impose any legal restrictions as to what criteria can be used by schools, this has left parents in a state of bewilderment as they are unsure as to what criteria schools can apply and how they can reassure their children at this important stage in their lives”.
- 2.22 The **NI Council for Voluntary Action (NICVA)** responses recorded grave concerns that un-regulation will worsen the position of disadvantaged children.
- 2.23 The **Children’s Law Centre** was supportive of the aims and objectives of the Guidance but was concerned that, lacking power, it would not compel post-primary schools to abolish academic selection and will not mitigate against the problem posed by the 11+ as a discriminatory system for determining access to post-primary schools. A very similar view was expressed by the **Human Rights Commission** who felt that it would be a greater lever to reduce inequality if the criteria in the Guidance were set out in legislation.
- 2.24 The **NI Commissioner for Children and Young People (NICCY)** welcomed the moves by the Minister and Department to create a new and non-selective system of post-primary transfer, but also noted that the Guidance cannot impose legal restrictions on the criteria that can be used by schools and that this would mean that the Guidance cannot meet its own stated aims about fair admissions decisions that “give each child the opportunity to reach his/her potential...”. **NICCY** commented that it was “clear that this guidance will not be uniformly applied in all schools” and was concerned that the “current fragmented process and the continuation of academic selection by some schools” will continue



negatively to affect children and, in particular, young people from disadvantaged backgrounds. **NICCY** called on the on Executive to “bring forward a legislative framework to regulate the transfer system.

2.25 Some of the **Sinn Féin** representatives’ responses expressed disappointment that the Executive “failed to discuss in a mature and informed manner the proposals brought forward by the Minister for Education for a regulated Transfer System”.

2.26 The **Social Democratic Labour Party (SDLP)** response expressed concern that “the approach of the Department will cause chaos” – citing Entrance Tests in the main. The **SDLP** welcomed the aims and objectives for the admissions process as expressed by the Guidance but also felt that, given the Guidance’s “admission” that Entrance Tests are not legally prohibited, admissions decisions will be more unfair, that transfer will be less clear, and that admission decisions will be less robust and the focus for more appeals and judicial challenges. The **SDLP** recommended the establishment of an educator-led working group, tasked with building consensus on non-selective transfer, whose recommendations the Executive and assembly would use as the basis for legally binding regulations from 2011 at the latest.

2.27 The **Governing Bodies Association (GBA)** response expressed concern that the future of the individual pupil was being reduced to a political wrestling match. They stated that the Guidance had some thoughtful innovations but these will have little traction. They particularly noted that Boards of Governors are at liberty on admissions unless prohibited by an authoritative source of law, and that a Board of Governors that engages in reflective consideration of the Guidance but then decides to take its own course have had sufficient regard for the Guidance. The **GBA** stated that the Guidance “represents the most significant withdrawal of a government body, the Department of Education, from mainstream educational decisions that anyone on GBA

can recall". The **GBA** also thought that final Guidance will issue too late for Boards of Governors to be able to act upon it.

## CHAPTER 3

### THE RECOMMENDATION AND ADVICE ON ACADEMIC ADMISSIONS CRITERIA

- 3.1 The Transfer 2010 Guidance published for consultation on 2 February 2009 contained the following comments about academic selection, and the use of academic admissions criteria through independent Entrance Tests:

**(Paragraph 9) “‘Entrance Tests’ for academic-based Transfer: There will be no Transfer Test provided by the Department for Transfer 2010 onwards. Some post-primary schools have stated that they will develop and operate their own “Entrance Test”. These independent “Entrance Tests” are not legally prohibited from operating as part of the admissions process but will do so without the approval of the Department (for further details see Paragraphs 16, 18-27).”**

**(Paragraph 10) “The regulation of admissions criteria: prior to 2010, the admissions criteria that a post-primary schools’ Board of Governors could consider using for their school were governed by Article 16 of the Education Order (NI), 1997 and admissions criteria regulations drawn up by the Department under the same Article; but due to the replacement of this Article, its supporting regulations will lapse for the admissions process from 2010 onwards. Specifically, this lapse will mean that there will no longer be:**

- (a) a prohibition on the use of academic admissions criteria by non-grammar schools;**
- (b) a prohibition on the use by any school of their own “Entrance Test” or examination in order to determine the application of academic admissions criteria ... ”**

**(Paragraph 11): “Within their continuing statutory duties and responsibilities (as summarised in Paragraph 6), it will be legal for a post-primary school’s Board of Governors to use any admissions criteria except for those prohibited more generally by equality legislation”.**

**(Paragraph 18): “The legal position and the Department’s recommendations: for any school to use academic admissions criteria will not be explicitly prohibited. However, it is the Department’s policy not to include academic admissions criteria in its menu of recommended admissions criteria. This is because the Department does not consider academic selection to be consistent with the objective of treating children fairly and giving each child the opportunity to reach his/her full potential. The Department has withdrawn the Transfer Test and has not replaced it because it believes that such ability-based admissions maintain and support inequality. For example, under the previous operation of academic selection, 1 in 17 children in academically-selective schools were FSME whilst 1 in 4 children in other schools were FSME. Further, the Department believes that taking such an important decision at the age of 10/11 is no longer tenable and that informed election at the age of 14 enables young people to choose appropriate educational pathways.”**

**(Paragraph 19) “The Department considered the previous Transfer Test to be capable of making “ability-based” admissions decisions in an administratively robust manner because of the way it was developed and operated (i.e. by a dedicated, resourced and expert body – the CCEA). Therefore, the Department strongly recommends that any post-primary school Board of Governors that is considering using academic admissions criteria and, therefore, an independent assessment**

mechanism or “Entrance Test”, as a basis for admissions in 2010, should be very mindful of the need for a robust assessment mechanism capable of providing for sound ability-based admissions decisions.”

(Paragraph 21): “Communication of independent assessment arrangements or “Entrance Tests”: it should be noted by all involved in admissions and post-primary school transfer that post-primary schools attempting to operate independent “Entrance Tests” for the purposes of applying academic admissions criteria are likely to run such tests in the autumn term of 2009. Previously there had been a process in place whereby it was the responsibility of all primary schools to ensure that those who wanted to sit the transfer test were entered for the test. This procedure will not be in place in future.”

(Paragraph 22): “Any school attempting to use academic criteria will need to ensure that all parents have access to information about their Entrance Test.”

(Paragraph 23): “In relation to the issue of preparation for a post-primary school's entrance test, primary schools should note that this cannot be required of them and that the Department strongly recommends against it. Indeed, all primary schools are covered by statutory obligations to deliver the primary curriculum as defined in Articles 4-9 of the Education Order 2006. The Education and Training Inspectorate will also continue to monitor the quality of teaching and learning, in the context of, the revised curriculum in primary schools.”

(Paragraph 24): “Special Circumstances Procedure for the application of academic criteria: any schools that decide to

include as part of their admissions criteria an academic criterion requiring an “Entrance Test”, should understand the critical importance of such a process being supported by a special circumstances procedure. It is likely that the courts would consider it unreasonable for a school not to be able to factor into a test-based admissions decision, circumstances beyond the control of the candidate (e.g. bereavement, accident or illness) that on the day of the “Entrance Test” may have led to that candidate’s performance being adversely affected.”

(Paragraph 25): “In this regard, schools attempting to use independent assessment procedures or “Entrance Tests” within their admissions should be mindful of disability discrimination – as it is defined under the Disability Discrimination Act, 1995. If a pupil seeking admission to a school is defined as disabled under the terms of this Act, then the school will have a duty to make “reasonable adjustments” in relation to the arrangements it makes for determining admission. This is likely to be an issue given the fact that some forms of disability, as defined by the Act, will not mean that the applicant is in receipt of a Statement of Special Educational Needs – and will, therefore, mean that their admission is to be determined fairly within the standard admissions procedures. For advice on this, schools should refer to the Equality Commission Code of Practice, *Disability Discrimination – Code of Practice for Schools*”, and in particular Part 6 of that Code.”

(Paragraph 26): “Any schools that decide to include as part of their admissions criteria an academic criterion requiring an “Entrance Test” should also understand the supporting role that, in relation to the Transfer Test, was performed by the Special Provisions Procedure. This supporting role was

provided for children who entered late into the primary curriculum (i.e. because they have moved here from another country) and who, therefore, were less prepared for a Transfer Test aligned with that curriculum. It was also provided for children who made a “mid-year” application to a grammar school. According to their specific circumstances, many such children qualified for the Special Provision of being assessed for the purposes of grammar school admissions, not through the Transfer Test, but through the psychological assessment of an ELB Educational Psychologist.

(Paragraph 27): “Schools contemplating using “Entrance Tests” should assume that they will need to make fair and robust admissions decisions on applicants who have not been able to sit an “Entrance Test” or who cannot be assessed fairly by such a test.”

3.2 These parts of the Guidance were the focus of comment in many consultation responses. The vast majority of the responses of the **general public** largely consisted of statements supporting the abolition of academic selection, criticisms of the effects of academic selection, and/or opposition to those who wished to continue academic selection. The following statements are representative:

- “I write in support of the Minister’s brave campaign to see the Transfer Test abolished and to introduce a greater degree of social justice in the way the education system is organised.”
- “I am concerned that a small number of catholic grammar schools appear to be making common cause with reactionary unionism on this issue. I am confused as to the role of the Catholic bishops who appear unwilling to stop certain Catholic grammar schools engaging in academic selection and thereby excluding children from

disadvantaged communities from their schools. This is neither Christian nor Catholic.

- “the teaching unions realised some time ago that this test was destructive and socially divisive. It has failed working class communities and condemned generations of children as failures”.
- “... grammar schools have used the 11+ to ensure they have a full quota, thus enabling them to access higher levels of funding. This is highlighted by the fact that grammar schools admit pupils who have obtained a C or even a D grade”.
- “I am in complete agreement with the Cambridge University primary review which concluded that children’s learning was distorted by tests”
- “the 11+ was wrong as it put undue pressure onto children at a very young age”
- “I am dismayed by the lobby for the retention of academic selection which simply means that lobby for the retention of privilege and vested interest”.
- “the 11 plus for decades condemned the majority of our children as failures”
- “It is right and proper that our young people should be making key decisions about their future at age 14”
- “It seems to me that a system designed 60 years ago to determine the nature of an education that is most suitable for a young person cannot any longer be considered fit for purpose”
- “I am disappointed that a minority of schools in conjunction with a compliant media are opposing the Minister’s proposals”
- “I believe academic selection is wrong and has a detrimental impact on the educational and personal development of our children. My child is currently studying at a school which has implemented the new revised curriculum and as a result has benefitted greatly”.



- “academic selection is being abandoned around the world”.

3.3 A small minority of the **general public** responses did not welcome the issue of the Transfer 2010 Guidance and commented on how our P6 children are meanwhile placed in “this void”. In relation to the Transfer 2010 Guidance’s statement as to the robustness of the Transfer Test (Paragraph 19), these responses asked “why remove such a robust system without having something equally robust in place”. They also expressed the view that the Guidance “is already leading to a two-tier system of educational provision, with a considerable number of schools openly preparing their P6 pupils for a test situation while others are not”.

3.4 The majority of the **schools** that responded were grammar schools and the majority of these stated their intention to use Entrance Tests in Transfer 2010. The reasons for this were mixed: some grammar schools were adopting Entrance Tests out of a positive belief that academic selection at 11 should continue in order to ensure that children of differing abilities and aptitudes received the post-primary education that best suited them; some grammar schools were adopting Entrance Tests as they felt they had no choice in the short term or until the key point of transition could be changed to 14, a change which some stated they would welcome. Some expressed confidence in their independently developed assessment arrangements or at least stated that they noted the need for these to be robust, whilst some referred to the robustness of the test that DE had withdrawn. Some asked for the Educational Psychologist role, provided by the Education and Library Boards and enabling the Special Provisions Procedure (which supported the standard procedure of academic selection at 11), to be continued. The other school and Alternative Education Provider responses on the subject of Entrance Tests and academic selection welcomed the position of the Guidance and raised some of the issues that Entrance Tests may present (the role of primary schools, charging parents). Irish Medium Schools stressed the need for Guidance to take account of and advise

on duties in respect of children transferring from Irish Medium primary schools.

3.5 The **Education and Library Boards (ELBs)** all made a number of comments on the subject of Entrance Tests and their operation. The **Belfast Education and Library Board (BELB)**, the **South Eastern Education and Library Board (SEELB)** and the **North Eastern Education and Library Board (NEELB)** commented on the Guidance's observation that an entrance test must be a "robust assessment mechanism capable of making sound ability-based admissions decisions" – and asked: "who will determine the quality and fitness for purpose of a test or tests". **BELB, SEELB, NEELB and the Western Education and Library Board (WELB)** had concerns about communications to parents prior to the operation of Entrance Tests and questioned how parents would know all they needed to know about the forthcoming tests (how they would be used, supporting procedures for special circumstances) if these were independent. These concerns led these ELBs to warn of confusion and misinformation in Entrance Test operation.

3.6 **BELB, SEELB, NEELB** warned of problems about transport issues to test centres for entrance tests, and variety in practice across individual schools in relation to Special Circumstances and Special Provision. **BELB, SEELB, NEELB** and **WELB** had concerns about the future role of educational psychologist assessments in post-primary transfer, both in terms of special provision and statemented children. The **Southern Education and Library Board (SELB)** asked detailed questions on how a statemented child will be placed within a grammar school via an educational psychologist's assessment when there is no longer a Transfer Test to refer to. When considering cases where statements do not request a grammar place, do Tribunals only consider the Guidance's recommended criteria?

3.7 All five **ELBs** attached to their response the same annex collecting together all of the issues and implications that are raised by the prospect of Transfer 2010 being operated on the basis of the draft Guidance and which focuses on the administrative issues related to Entrance Tests. According to this and other related comments, the five **ELBs** listed a number of concerns including “no uniform approach to testing to facilitate academic selection“, “new and different Special Circumstances Procedures”, difficulties within the application process and the Appeals stage of the process, Across these areas and others, the five **ELBs** had a range of concerns including in particular:

- The potential for parental and child confusion, particularly in the face of weaknesses in which a new and more varied system (new and different multiple tests in unfamiliar environments, new supporting procedures changes to primary school role and applications process) is communicated;
- Difficulties for primary schools in the face of parental expectation to provide test-preparation. If primary schools do not provide preparation will parents seek a change of primary school? If they do, will this skew the delivery of the revised curriculum and how will preparation serve different tests?
- Difficulties for post-primary schools. For those operating tests, how will they communicate pre-test to all parents? Will they be able to handle the logistics of administering and hosting tests, particularly Special Circumstances Procedures faced by large volumes. How will the new Special Circumstances Procedure avoid increases in appeals? In the face of a more complex and un-coordinated system, will post-primary schools have, for all of their decisions, the complete audit trail that the Appeals Process requires?
- Difficulties for ELBs and ESA in their role: What is the ELB/ESA role in an un-regulated system of Entrance Tests? Will transport be affected? How will increased appeal volumes be managed? Will

Boards be expected to be able to advise parents on all aspects of an un-regulated and un-coordinated procedure? How will the lack of a unified test-scoring system affect the Board role? Will Boards provide Educational Psychologist's Assessments for the purposes of Special Provision? How will Boards provide Appeals Tribunals with all the necessary information when they will no longer have it? Indeed, may Boards/ESA fail in their statutory duties in relation to Appeals if faced with both a surge in demand and practical difficulties in meeting that demand? What is the Board's role/liability in any legal action involving their schools?

- Difficulties for Appeals Tribunals: they could face an increased volume of appeals in a context (an un-coordinated system where the ELBs/ESA may not be able to facilitate them as well as in the past) where appeals are less transparent? Their remit will remain the same – meaning that any new increase in appeals should mean most being turned down – leading to Judicial Reviews. All five ELBs feared a combination of a delayed start to the new school year (due to lack of closure of Transfer 2010) and a number of “un-placed” children.

3.8 The **SELB** also represented in their response “the majority views” expressed at a meeting of principals of controlled junior and senior high schools – and which “reiterated their support for the system [the two-tier system in the Craigavon area]”.

3.9 The **Association of NI Education and Library Boards (ANIELB)** was also concerned about a lack of standardisation in testing, the possibility for multiple tests, and litigation costs to parents, schools and Boards of Governors.

3.10 The **Council for Catholic Maintained Schools' (CCMS) response** stated the council's “clear and unequivocal policy to secure the end of academic selection at the age of 11 and move towards an inclusive system of post-primary education where the differential learning

aspirations and needs of each child are appropriately catered for”. It also supported the views of the Commission for Catholic Education that, when final Guidance is published, all post-primary schools should implement it “as fully as possible”.

3.11 **CCMS** expressed its concern that schools can set admissions/entrance tests without regulation and feared this may lead to uncertainty and confusion in the primary sector. **CCMS** also asked for clarity on Special Circumstances and stressed its concerns about the rights of children whose circumstances may be covered by the 1995 Disability Discrimination Act, or the current Special Provisions Procedure, and the potential exploitation by some Boards of Governors of the various supernumerary routes into a post-primary school.

3.12 The **NI Council for Integrated Education (NICIE)** response stated its opposition to academic selection at any age.

3.13 The **Comhairle na Gaelscolaíochta (CnaG)** response considered the Guidance to be “seriously deficient”, particularly the absence in the Guidance of any reference to the responsibility which **CnaG** felt schools had with regard to children in Irish Medium (IM) education – particularly in relation to the need to have versions of the entrance tests that have been appropriately adapted and translated in to Irish. CnaG considered that DE has a duty (through Guidance) to make post-primary schools with IM primary schools in their catchment area aware of the need for appropriate translation of entrance tests. CnaG asked for clarification of the legal implication if this translation is not provided. CnaG welcomed the reference to “special provisions procedure” – in the absence of suitably translated entrance tests many parents of IM children may feel that they fall into this category.

3.14 The **General Teaching Council for NI (GTCNI)** described the prospect of Entrance Tests as fraught with potentially legal and administrative difficulties: “testing, and in particular high-stakes testing relating to

school admissions are potentially exposed to what might be termed a range of technical problems. These technical problems range from issues around validity and reliability as well as the assessment outcomes being compromised by that standard error of measurement”.

3.15 The **Association of Teachers and Lecturers (ATL)**, the **National Association of Schoolmasters and Union of Women Teachers (NASUWT)**, the **Ulster Teachers Unions (UTU)** and the **Irish National Teachers Organisation (INTO)** all supported the recommendation in the Guidance for the discontinuation of academic selection. **UTU** described independent Entrance Tests as “morally unsupportable”. The **NASUWT** expressed its support for a fully comprehensive system.

3.16 “Most” of those represented in the response of **Include Youth** “did not want to keep the 11+” and the response quoted a number of the reasons given:

- “You are too young – you are still a child”
- “[children] were put into a different class – people made fun of them and slagged them”
- “You felt a failure if you didn’t do it”
- “It’s posh vs. poor”
- “We sit in different parts of the school bus – we sat at the back, they sat at the front of the bus and they wouldn’t dare come to sit near the back with us”
- “Everyone should have the same chance”
- “In the first few days or weeks in high school, you should do a test in English and Maths and then decide what level of classes you go into”

3.17 Others, however, thought there was merit in selection-by-ability:

- “I think it’s good cos you get to see what level you are at”

- “Yes, I think you have to split people up – some people might just be better than others, more gifted”.

**Include Youth** summarised as “most telling ... their perception of the clear divide between those who sit the 11 plus and those who do not, and in turn those who attend grammar school and those who do not”. **Include Youth** stated its belief that the recent selective system was discriminatory against disadvantaged and vulnerable young people.

3.18 The response from the **Parenting Forum NI** welcomed the “intentions” of the Minister due to their belief that a post-primary transfer based on academic selection is not in the best interests of young people. The prospect of Entrance Tests caused concern, however. The response highlighted, in particular, that, because Departmental Guidance asks primary teachers not to prepare children for tests, parents will have to do it or pay for it. As parents are not equally able to provide or pay for such preparation, the response was concerned at the prospect of some parents being more disadvantaged than before: “parents from areas of social deprivation have expressed their concerns that the Minister’s criteria and the absence of a ban on entrance exams is allowing their children to be unfairly disadvantaged within the Transfer procedure”. The danger of multiple tests, and the distress these may bring, was also highlighted.

3.19 The **NI Youth Forum**, offered mixed views on academic selection: many supported the abolition of 11+ on equality and “pressure on young children” grounds; others felt there was merit in selecting by ability and many thought “you have to have some kind of test”. Again quotations were provided:

- “I think the end of the 11+ was the best thing ever to happen within the north of Ireland. I got an A’ but I think it was totally ridiculous and really unfair. It had very little to do with the actual curriculum and and

those who didn't do the 11 plus were left at the back of the classroom to read books" (16-year-old, male).

- "Secondary education is very important. High achievers should be able to compete against other high achievers (18-year-old, female)
- "schools should be kept the way they were. I think it is unfair to put different abilities into one class, it could hold a few people back. So if you have the 11+ and the choice to do it or not, everyone wins" (16-year-old, female)
- "the pressures on young people in primary school were too great. The 11+ put them into groups ...In my experience children do not deserve to be to be labelled at such a young age. It leaves them vulnerable, stressed and failures if they don't pass" (16-year-old, female).

The response author concluded that "a divided system is ingrained in our identity".

3.20 The **NI Council for Voluntary Action (NICVA)** response expressed support for a transfer system without academic selection. In an unregulated system, however, it had concerns about processes that rely on parents getting the necessary information - which will place some families, those already disadvantaged, in a worse position.

3.21 The **Children's Law Centre** welcomed the end of the 11+ but had concerns regarding the onus on parents and the potential for primary schools to adopt different approaches to preparation, leading to inequalities. The **Centre's** response also recorded concern that, due to the presence of Entrance Tests, lower socio-economic families will be disadvantaged in obtaining access to the most desirable schools. The response was also concerned about proactive engagement of "parents" in relation to arrangements for looked after children, children in the youth justice system and children who are carers. It also had fears about tests



that will not be regulated by DE and that may result in the failure to meet the aim that post-primary schools' Boards of Governors achieve "robust and accurate admissions decisions". The **Equality Commission for NI** referred to the views in support of the abolition of academic selection that they expressed in the 2005 consultation exercise on post-primary transfer.

3.22 The **NI Human Rights Commission** positioned their support for the abolition of the 11+ in the context of the United Kingdom's human rights commitments and obligations. The Commission cited the concerns of the 2008 United Nations' Committee on the Rights of the Child about the continuation of academic selection at 11 in the north of Ireland and also the critical 2003 report of the United Nations Special Rapporteur on the Right to Education. The **Commission's** response also provided a consideration of Human Rights law and European Convention to present the case that there is no "right" to a grammar school education, nor was the **Commission** aware of any standards or principles in HR law that could be used to assert a duty on the state to fund grammar schools or retain academic selection. The **Commission** highlighted the obligation of the state to ensure that "every child has access to the right to an effective education" and cited the United Nations Convention on the Rights of the Child (CRC). This commits those states party to the CRC to "encourage the development of different forms of secondary education, including general and vocational education [and] make them accessible to every child". The **Commission** also highlighted the provisions of the CRC that related to non-discrimination.

3.23 Generally, the **Commission** commented that whilst Human Rights considerations are implicit in the Guidance, they would prefer that they were explicit. The **Commission** advised schools using breakaway tests to ensure that their actions are not in conflict with Human Rights obligations, stressing the need for "clarity, due process and non-discrimination in any admissions arrangements", and that "the need to communicate to all parents should pay particular regard to reaching

socially disadvantaged groups and groups with particular communication needs including issues in relation to literacy, disability and speakers of languages other than English“.

3.24 The **NI Commissioner for Children and Young People** made a similar series of comments in relation to their opposition to academic selection, international law and the CRC, recommending that the Guidance’s proposals be reviewed against the relevant articles of the CRC (2, 3, 5, 6, 12, 28, 29). **NICCY** quoted the recommendation of the 2008 United Nations’ Committee on the Rights of the Child for an “end to the two-tier culture in the north of Ireland by abolishing the 11+ Transfer Test and ensure that all children are included in admissions arrangements in post-primary schools”. **NICCY** expressed its concern and disappointment at continuation of academic selection by some schools. It was also concerned that schools will be subject to numerous legal challenges from parents. **NICCY** also asked what action the Minister has taken in response to an Assembly Motion of 24 March 2009 calling on her to re-commission the CCEA test for use by schools for up to 2 years maximum and calling on the Executive to agree new, legally binding guidelines for use from 2011.

3.25 Responses from **Sinn Féin** representatives expressed support for the ending of academic selection, on the grounds that it is “antiquated”, “divisive”, has led to a wide educational attainment gap, “brands children as failures”, “discriminates against disadvantaged communities”, was disruptive for those choosing not to sit the test, and is supported by a lobby for the “retention of privilege and vested interest”. In relation to the prospect of independent Entrance Tests, some **Sinn Féin** representatives’ responses were highly critical, describing such as “legally precarious” and as an “attempt to continue a system of exclusion”. Calls were made for full disclosure of private donors that were funding tests. Some responses were critical of “a small number of Catholic grammar schools ... making common cause with reactionary Unionism” and the ethos of such schools was questioned. Many

expressed strongly the need to ensure that the delivery of the Revised Curriculum in primary schools should not be distorted by the admissions plans of post-primary schools. Many noted the support of the “majority” of schools and the teacher Unions.

3.26 The **Social Democratic Labour Party (SDLP)** response supported the Department’s commitment to the removal of Entrance Tests for academic-based transfer. Given the current uncertainty in the system and prospect of chaos, **SDLP** urged the operation of the CCEA test, as previously proposed, for two years maximum.

3.27 The **Governing Bodies Association (GBA)** response stated its intention to strive to maintain a universal test and regretted that DE has not seen fit to provide the robust assessment mechanism that its draft Guidance stated is required for academic transfer. The **GBA** did not agree that academic section is contrary to the objective of each child fulfilling their potential. The **GBA** also registered its concern about grammar schools’ loss, in law, of the right of refusal (Paragraph 15 of the Transfer 2010 Guidance) and thought this would result in pupils inappropriately placed and may undermine the secondary sector.

## CHAPTER 4

### THE FREE SCHOOL MEAL ENTITLEMENT CRITERION

4.1 The Transfer 2010 Guidance published for consultation on 2 February 2009 contained the following recommendation about the introduction, for all post-primary schools, of a new first criterion that sought to give a proportionate level of priority to applicants entitled to Free School Meals:

(under Paragraph 17):

Recommended first criterion for all schools	Notes
“Applicants who are entitled to Free School Meals (FSME): priority to be given so that the proportion of such children admitted is not less than the proportion of first preference FSME applications received within the total number of first preference applications received.”	“For example, if 20% of the total number of first preference applications are from FSME applicants, then at least 20% of the school’s places should be allocated to FSME applicants. Further information will issue later to clarify exactly how the applications process will facilitate the operation of this criterion”

(Paragraph 20): “Consideration of FSME applicants: schools attempting to use academic admissions criteria should also be mindful of the degree to which such criteria, based on an assessment mechanism, tend to lead to considerable under-representation of those entitled to Free School Meals; and are, therefore, particularly urged to use the recommended first criterion (for FSME applicants) from the menu of recommended criteria at Paragraph 17.”

4.2 These parts of the Guidance were the focus of comment in many consultation responses. The vast majority of the responses of the **general public** were supportive of the Transfer 2010 Guidance and many of these specifically supported its recommendation of the FSME Criterion:

- “The introduction of the Free School Meals criterion into the admissions criteria menu is a welcome move as it will see children from our poorest communities admitted to school who previously would not have let them through the door”.
- “I welcome the introduction of the criterion around free school meals as a measure designed to ensure that all children have equal access to the same quality education”.

4.3 The majority of the **schools** that responded to the FSME Criterion recommendation were **grammar schools**. A small number of these considered the FSME Criterion to be incompatible with or potentially compromising of the nature and admissions process of an academically-selective school. Otherwise, grammar respondents had a range of views: many were supportive of the intent behind the FSME Criterion and some stated that they will use it, if not as their first criterion. However, many were critical of the method chosen by the recommended FSME Criterion for a number of reasons, of which the most common were:

- that not all parents entitled to Free School Meals actually establish their entitlement and will be missed by this measure;
- that parents on Working Family Tax Credit (a significant number in rural areas) are low-income but do not qualify for Free School Meals and so will also be missed.

This led some grammar respondents to describe the proposed FSME Criterion as “crude”, “invidious and inequitable”. For many the most significant weakness in the proposed FSME Criterion was the lack of

detail in how it would operate: many agreed with the views of one respondent who described this lack of detail as a "significant omission". A small number of grammar respondents also noted the potential for religious bias in the FSME Criterion, given the greater numbers of Catholic children who are FSME.

- 4.4 The small number of **secondary schools** that responded on the FSME Criterion also made the point that the proposal is essentially incomplete, blunt and needs to be developed in detail. The small number of **primary schools** that responded were mostly critical of the proposal and argued that it was discriminatory and would treat FSME children with priority rather than equality, potentially to their misplacement and at the expense of other children perhaps more local/suitable.
- 4.5 The responses of the five **Education and Library Boards (ELBs)** cited the unpopularity of the social disadvantage criterion in the pre-school setting and the potential for it to have perverse effects (i.e. encourage parents to give up employment). They also had concerns about how the FSME Criterion would operate securely within the process (i.e. would there be an electronic system establishing entitlement at the point of application or would social security agencies be involved; what would be the effective date in establishing entitlement?).
- 4.6 The **five ELBs** were also concerned about the lack of transparency and the added degree of complication that the FSME Criterion may bring to the process, citing the level of complexity that this will bring to admissions decisions, particularly in the already complex processes of Integrated schools. All feared that it may lead to highly complex use of tie-breakers. They are also concerned about the FSME Criterion being compulsory, and first, and fear this may lead to legal challenge. All five also cited concerns that the potential operation of the FSME Criterion may impinge upon their obligations under data protection.

- 4.7 Drawing on their own statistics, the **BELB** had concerns that when schools serve areas with large numbers of FSME pupils, any criterion providing a fixed quota of FSME entrants may actually deny local FSME children a place. BELB were also concerned about the possible opposite effect, schools that were admitting concentrations of FSME children – and serving large numbers of Statemented and Looked-after Children and Newcomer children (many of whom qualify for FSME). On the back of this point, BELB was also concerned about the potential this measure may have to change suddenly the distribution around the system of children who attracted targeted funding to their school – as many of such children qualify for FSME. Any such sudden change, they felt, would present difficulties for schools in the short term.
- 4.8 The **SEELB** questioned that, if further detail on the operation of this FSME Criterion is only to issue after consultation, then how will this further detail be consulted upon? The **WELB** asked how this FSME Criterion could best be communicated to parents, questioned its potential to break-up siblings and suggested it may lead to an increase in the uptake of FSM.
- 4.9 **BELB, SEELB, WELB** and the **NEELB** recommended an alternative criterion if the Department wishes to recommend a socially disadvantaged criterion, one that schools can choose to use and which reads: “Preference will be given to children in receipt of free school meals at the date of application/ confirmation required from Primary School Principal”. The **Association of NI Education and Library Boards (ANIELB)** commented that schools will need further clarification on the operation of the FSME Criterion.
- 4.10 In the light of the comments that it made on local and community-based school admissions (summarised in Chapter 5), the **Council for Catholic Maintained Schools (CCMS)** stated that it could not be certain as to the proposed value of the FSME Criterion. “The introduction of Area-based Planning, the implementation of the Sustainable Schools Policy and

changes to Open Enrolment would create a more balanced intake without the need for social engineering". CCMS stated that they would like further details on the FSME Criterion – its purpose under Area-based planning and the mechanisms to make it effective.

4.11 The **NI Council for Integrated Education (NICIE)** welcomed the recommendation in principle but raised concerns about the possible impact on religious balance within an integrated setting – something which could cause an Integrated school to fall outside DE's requirements. **Comhairle na Gaelscolaíochta (CnaG)** welcomed efforts in the Guidance to ensure all pupils including those from socially disadvantaged backgrounds are treated equally. The response from the **General Teaching Council of NI (GTCNI)** described the policy intention behind the proposal as "laudable" and wished to see the further detail promised in the Guidance.

4.12 The **Association of Teachers and Lecturers (ATL)**, the **National Association of Schoolmasters and Union of Women Teachers (NASUWT)** and the **Irish National Teachers Organisation (INTO)** recorded their support for attempts to improve social balance within schools/ have socially balanced intakes. The **ATL** response called for the social balance of intakes to be monitored and reported on annually with a role for the Equality Commission and the Education and Training Inspectorate (ETI) and suggested that account of the social balance of all schools should be a key determinant of performance. **ATL** also stated that DE should aim to set out minimum and maximum bands of FSME children based on broad area catchment and weight the common funding formula to incentivise socially balanced intakes.

4.13 The **Ulster Teachers Union (UTU)** disagreed with the proposed FSME Criterion and had concerns that many who would be entitled to FSM do not apply due to a belief that their children would be stigmatised.



4.14 The response of **Include Youth** stated support for the intention to increase the number of children from disadvantaged communities entering grammar school. The **NI Youth Forum** reported that the general first reaction of the young people who took part in its consultation exercise was that the proposed FSME Criterion was “unfair”, although this reaction developed with discussion and different opinions accepted that the FSME Criterion would benefit some young people. The response of the **Parenting Forum NI** welcomed the Department’s efforts to accommodate children from lower socio economic backgrounds but was unsure as to how successful this measure will be.

4.15 The **NI Council for Voluntary Action (NICVA)** welcomed the FSME Criterion but felt it was “too little too late” and will do little to make a chaotic system fairer. NICVA advocated a more sophisticated approach that separated FSME from transfer and instead introduced incentives that followed FSME pupils. It also felt that robust area-based planning should be used to move towards a fairer system.

4.16 The response of the **Children’s Law Centre** was supportive of the proposed FSME Criterion considering it to be important to ensure equality of access to quality education by those children from poorer socio-economic backgrounds. It was also concerned, however, that the proposal will not be effective as it will not be used by those schools which are deemed most desirable and highest achieving. The **Centre’s** response also commented that the Equality Impact Assessment of the Transfer 2010 Guidance will show the need to proactively advantage those children (children whose parents are not proficient in English, children with disabilities, traveller children, looked after children, children in the youth justice system and children who are carers) who are currently being discriminated against in the education system and argues for consideration of a form of “social criteria” in the interests of equality of opportunity.

- 4.17 In line with its own previous recommendation, the **Equality Commission for NI** welcomed the intention to introduce a positive integration measure. The **Commission's** response considered FSME as an appropriate proxy measure for poverty and social deprivation, but advised that DE should also ensure "the entrance criteria are sufficiently comprehensive, given issues highlighted in "Every Child an Equal Child" and the wider range of those students experiencing educational inequalities who might not fall into the FSME scope".
- 4.18 The **NI Human Rights Commission** was supportive of the proposals in line with its previous statements that FSME be used as an indicator of disadvantage to assist in reducing inequality in the transfer system. The **Commission's** response also recorded its awareness that DE is revising the FSM criteria (to take account of migrant status) – and advised that this should ensure that an amended criterion is in place for Transfer 2010 to cover these children.
- 4.19 The response of the **NI Commissioner for Children and Young People (NICCY)** welcomed the recognition that children from lower socio-economic backgrounds have low educational achievement and the transfer system needs to overcome these inequalities. It also stated, however, that it did not understand how the FSME Criterion will work in practice as lack of legally binding guidance will mean that only some schools will use it and it needs all schools to use it if it is to be effective. It found further comment difficult in the absence of greater information.
- 4.20 **Sinn Féin** representatives welcomed the introduction of the FSME Criterion as a means of ensuing equality of opportunity. Amongst the menu of recommended criteria, the **Social Democratic Labour Party (SDLP)** were particularly pleased with the recommended first criterion for all schools – that of FSME - for reasons of equity.
- 4.21 The response of the **Governing Bodies Association (GBA)** considered the proposed measure to be "crude", on the grounds that it excluded

some low-income families (i.e. those in receipt of Working Family Tax Credit), that FSME is elective and is not always taken up and the problems with establishing the crucial point of entitlement. Above all the GBA found the proposal incomplete and lacked the identification of precise mechanisms. The **GBA** had concerns that the application of this criterion may be damaged by legal challenge. They stated that they would welcome a better social disadvantage criterion but noted that any quota would be incompatible with academic selection.

## CHAPTER 5

### THE OTHER RECOMMENDED CRITERIA

- 5.1 The Transfer 2010 Guidance, once it had recommended that all schools use as their first criterion the FSME Criterion, then recommended that the Boards of Governors of post-primary schools draw up their admissions criteria from the following menu of recommended criteria:

(under Paragraph 17)

<b>Other Recommended Criteria (in no particular order)</b>	<b>Notes</b>
<b>Sibling</b>	This criterion to be defined as “Children who have a child of the family currently enrolled at the school”. The phrase “child of the family” covers children fostered, adopted etc. and avoids having to define all the various permutations of sibling.
<b>Eldest Child</b>	This criterion to be defined as “children who are the eldest child to be eligible to be admitted to the school.” This wording covers “only” children and is also intended to treat twins (or other multiples) as joint eldest. The term “eldest” can include eldest boy/girl in the case of single sex schools.
<b>Feeder/named primary school</b>	This criterion to be defined as “children who attend a named primary school to which a Board of Governors chooses to give priority”. Post-primary schools should not give a higher level of priority to one primary

	<p>school than is given to a primary school of the same sector and that is geographically closer to the post-primary school. In general this criterion should be used to prioritise children attending a post-primary school's local primary schools. The Department may intervene where it considers that this criterion may be used in a manner that disregards these specific points.</p>
<p><b>Parish (with nearest suitable school);</b></p>	<p>This criterion to be defined as “children who reside in a named parish”.</p>
<p><b>Catchment area (with nearest suitable school)</b></p>	<p>This criterion to be defined as “children who reside in the named catchment area of the school”. A catchment area can be defined as “a geographical area served by a school which is defined by the Board of Governors”.</p> <p>This Guidance recommends that these two “geographical” admissions criteria (“Parish” and “Catchment Area”) should only be used if used in combination with the “Nearest Suitable School” criterion. The purpose of this is to ensure that outlying and rural applicants are treated with equal priority within admissions as those whose address qualifies them for a school's geographical criteria. If followed, this recommendation will mean that an applicant with an outlying address in terms of their nearest suitable school (e.g. a rural applicant) will not be disadvantaged by that address.</p>

	<p>Apart from the effect intended by combining these two geographical criteria with the nearest suitable school criterion, post-primary schools should not give a higher level of priority to those resident in one area or parish than is given to those resident in another area or parish that is geographically closer to the post-primary school. The proper use of these two criteria is to prioritise applicants in a post-primary school's local areas or parishes. The Department may intervene where it considers that these criteria may be used in a manner that disregards these specific points.</p>
<p><b>Nearest Suitable School;</b></p>	<p>This criterion is defined as “children for whom the school is the nearest suitable school.” The relevant definition would be: “nearest to the child’s normal place of residence.” The decision for the post-primary schools’ Board of Governors is whether or not there is another school in the same category as theirs which is nearer to the child’s address. If not, the child meets the criterion. The categories of schools to be used for the purposes of these decisions should (irrespective of whether a school is attempting to practise academic admissions) continue to be “denominational grammar”, “non-denominational grammar”, “maintained secondary”, “controlled</p>

	<b>secondary”, “Irish-medium” and “Integrated”.<sup>1</sup></b>
<b>Random Selection (tie-breaker).</b>	<b>This criterion is to be defined as “a method of random selection”. It will be for the post-primary schools’ Board of Governors to design a method of random selection, but the Department strongly advises schools using this tie-breaker to ensure they have a clear audit trail of the process.</b>

5.2 This menu was the focus of detailed comment in many consultation responses. In general, the responses of the **general public** did not focus in detail on the menu of recommended criteria other than to comment on academic criteria and the FSME Criterion, but some of the supportive responses stated urged a more local emphasis within admissions and some stated “that it is only through the new criteria that all children will have the same access to education”.

5.3 Responses about the other recommended criteria from **schools** and an **alternative educational provider**, the majority of which were from grammar schools, included the following themes:

- That much of the menu was in current use and that some aspects of it, mostly the family criteria and the importance of a tie-breaker, were positively welcomed.

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<sup>1</sup> A grammar school is legally defined as a grammar school in a manner unconnected with the nature of its admissions process. The existing definition is contained in the interpretation section of the Education and Libraries Order (NI), 1986 and is as follows:

“grammar school’ means a secondary school which—  
(a) immediately before the coming into operation of Article 128 of the 1989 Order was a school in which fees were charged or could have been charged in respect of pupils admitted to the school, or a school which replaces such a school or schools; or (b) is established after the coming into operation of that Article and is designated by the Department as a grammar school.”

- Commonly there was opposition to the local/distance/geographical criteria recommended – be they parish, catchment area or feeder/named primary school – often citing a restriction of choice, postcode selection and sometimes with an emphasis on potential disadvantage for rural applications.
- Some felt that the Sibling Criterion recommended should not be restricted to applicants with a sibling currently in attendance but should also extend to applicants whose sibling formerly attended and, in some cases, that wider familial criteria should be recommended. Also some felt the definition of sibling and eldest child could be tighter.
- Many stated the difficulty of using the Feeder/Named Primary Criterion when they admitted children from very large numbers of primary schools and some felt historical patterns were just as valid as localism in choosing feeder/named primary schools.
- Mixed views were expressed on the recommendation to use random selection tie-breakers, some considering it preferable to localism, others seeing a “lottery” role in admissions as inappropriate. Some asked for alternative tie-breakers to be recommended.
- That the categories that defined whether a school was the “nearest suitable school” to an applicant should be broader, including specialism, single-sex/co-ed and should match what parents consider as suitable.
- Some wondered how the compulsory combination of “nearest suitable school” and geographical criteria would protect rural applicants.
- Some stressed the need to ensure that children with Special Educational Needs were not disadvantaged in the new arrangements.
- Many in some form stated their intention to use criteria that were not recommended.



5.4 The five **Education and Library Boards (ELBs)** all made the following points in respect of the other recommended criteria:

- that, in the Sibling definition, “child of the family” needs clarification;
- Eldest Child needs clearer definition;
- Parish/ Catchment Area with Nearest Suitable School: does not appear to recognise that that a school is seldom located in the centre of a parish. The ELBs also raised the difficulties that Irish Medium and Integrated schools may have in using geographical criteria and seek clarification on whether the stipulation is that geographical and nearest suitable school must both be used together or cannot both be used.
- Nearest Suitable School: the definition should be included in the glossaries of the Transfer Booklets;
- Tie-breakers: the ELBs recommended the use of “random surnames”.

5.5 More generally: the ELBs noted that, in relation to a number of criteria, the Guidance raised the prospect of Departmental intervention. The ELBs asked ask how this would work?

5.6 The response of the **Association of NI Education and Library Boards (ANIELB)** commented that the “menu of recommended admissions criteria does not give sufficient clarity”.

5.7 The **Council for Catholic Maintained Schools (CCMS)** offered the following proposals for a menu of criteria – all of which were predicated on the development of area-based planning:

- “community criteria” was welcomed but should be based on a “right of access to the nearest school of a preferred sector as a broad descriptor of parental choice” and under the broadest possible

concept of “local” (this view conditions **CCMS**’ view on the FSME Criterion and the Eldest Child Criterion). For an interim period of 8 years current sibling and “community” should be mandatory: “community” criterion to be defined as resident in “the whole of the area or sub-area served by the school with part of an area attracting with part of an area attracting equal status thereby addressing the concerns of rural communities”.

- **CCMS** was happy with the definitions of geographical criteria in the Guidance in the interim – i.e. before the onset of area-based planning but argued that, in the future, all children living within area defined by planning should enjoy equal rights of access. Feeder/named primary should be considered in tandem with the community criteria.
- After 8 years, only the Community Criterion should be mandatory. The following items should be approved but not compulsory: children of employees; any subset of community not covered by the main community criteria (feeder primary/ catchment area or adjacent sub-area or area); family relationships.
- Eldest child should not be approved; the necessity of the FSME Criterion is questionable and more detail is required.
- Admissions criteria should not break up families.
- It should be clear that Parish defines a locality and not a religion. All children within a parish are welcome regardless of their religion.
- In relation to tie-breakers, **CCMS** felt that area-based planning should see the need for these and admissions criteria disappear to any great degree. When/where this is not the case, **CCMS** tie-breakers should not compromise the principle that all children within a defined area should have equal access, should only by exception be established by lottery, and the precise method should be for the Board of Governors to determine (subject to DE and their employing authority’s advice).

- 5.8 The **NI Council for Integrated Education (NICIE)** welcomed the inclusion of the Sibling Criterion in the recommended menu but asked it to be extended to children whose brother or sister previously attended the school as its exclusion could disadvantage “second” families. **NICIE** asked that subsequent siblings in a family be elevated to eldest child status if true eldest did not attend an integrated school due to fact that no integrated choice existed at time. **NICIE** requested that the menu include children of parents who are employees/governors of the school to acknowledge the contribution that individuals make to the school community and to support the family unit.
- 5.9 **NICIE** was supportive of the inclusion of the Feeder/Named Primary Criterion as it allows young people currently experiencing a shared education to continue within that environment but noted, also, that its use within other sectors will reduce the potential for young people to attend schools which are traditionally outside their immediate ‘community’. **NICIE** also stressed that a narrow definition of catchment could impact significantly upon integrated post-primary schools which are few and dispersed and necessarily draw from a large area – hence the need for flexibility. **NICIE** agreed with the recommendation to use a random selection tie-breaker. **NICIE** asked that the final Guidance make clear that integrated schools will continue to sort applications on the basis of religious background in order to maintain the religious balance within their intakes (as required by DE).
- 5.10 The **General Teaching Council for NI (GTCNI)** felt that it would have been useful if the proposed criteria had been “tested against the condition of area-based planning to ascertain the effectiveness of their application in practice”. The **GTCNI** noted that the menu does not impose a recommended order and also found the notes helpful (e.g. “child of the family” in the Sibling Criterion notes). It described all of the menu as “fit-for-purpose”, welcomed the stipulations on geographical criteria and the Nearest Suitable School Criterion and the emphasis on localism within the notes on the Feeder/Named Primary Criterion. It

considered, however, as significant the absence of a criterion around a parent being a past-pupil, for instance, despite the fact that many schools have strong inter-generational ties.

5.11 The **Irish National Teachers Organisation (INTO)** commented that family, community and geographical criteria must be applied in the context of socially balanced intakes. **INTO** also disagreed with the use of the Parish Criterion, commenting that in urban areas pupils may come from a large number of parishes rendering this criterion meaningless and that it could also lead to exclusion of particular primary schools. **INTO** felt that the term “child of the family” in the definition of “sibling” was helpful and agreed that the Catchment Criterion should be used with nearest suitable school so rural applicants are not disadvantaged. **INTO** also believed that, taking into account the FSME Criterion, the Feeder/Named Primary Criterion should be the first criterion so priority can be given to local primary schools. **INTO** viewed random selection as the best tie-breaker but stated that it should be applied by a central body thereby removing the potential for different methods to be applied by different schools.

5.12 The **National Association of Schoolmasters and Union of Women Teachers** was concerned that the Sibling Criterion could work against local children, poorer families and particular social groups. Similarly on the Catchment Criterion, **NASUWT** was concerned about the potential for socio-economic discrimination and also felt that the Feeder/Named Primary Criterion should only be able to be used to prioritise local primary schools. **NASUWT** also felt that a random selection tie-breaker should be centrally administered and uniformly applied across all post-primary schools. Also recommends a fresh round of random allocations when deciding pupil places from a waiting list. The **Ulster Teachers Union (UTU)** was not in favour of random selection and would prefer distance from the school as this would be more compatible with the concept of the school at the heart of its community.

5.13 The exercise conducted by the **NI Youth Forum** yielded the following points: there were a variety of views on the use of the Catchment Criterion and the local Feeder/Named Primary Criterion. Concerns were that a local school may not be a “good” school, that house prices may increase in some areas, lack of choice, access for rural children, it may not suit the needs of an academic young person and some felt it was good to move outside the local area and make new friends. Against this some young people believed in a “local school” principle – the ability to have local friends and community, “you get home earlier”, environmental issues – often with the condition that the local school was good. On the Sibling Criterion some expressed the positives of going to school with siblings – support, efficiency in terms of transport and uniforms, family connections to schools – whilst others expressed the negatives – the same school may not suit all in the family, the second child may be disadvantaged by the choices of the older child, judgements may be made based on other members of your family and it may limit a child’s choice of school. Random selection as a tie-breaker was generally regarded as unfair as this would mean places were awarded by chance rather than ability. A small minority, however, felt that all places should be allocated randomly as that would give everyone an equal chance.

5.14 On the Sibling Criterion and the Eldest Child Criterion, the response of the **Parenting Forum NI** recognised benefits but stressed the individual needs of children, especially children with Special Educational Needs. On the Feeder/Named Primary School Criterion, the **Forum** had concerns about primary schools being routes into post-primary schools and stated that the latter’s choice of feeders (and Parish) should be subject to consultation with parents. On the Catchment Area Criterion, the **Forum** feared a restriction of parental choice and clarity was requested on the Nearest Suitable School Criterion.

5.15 The response of the **Children’s Law Centre** was critical of the Sibling Criterion, on the grounds that it may discriminate against some children and could perpetuate “generational socio-economic deprivation”. The

**Centre** had concerns about the use of the Feeder/Named Primary Criterion believing that it may move the problem of oversubscription further down the line without criteria to deal with such an eventuality at primary school level. Ideally, it believed that DE should mitigate some of these concerns by choosing poorer achieving feeder schools for those schools viewed as high achievers. The **Centre** felt the use of the Parish Criterion had “boundary” problems and may lead to religious discrimination and also had concerns about distance criteria in relation to rural children. Generally, the **Centre** was concerned that if a child is prompted to choose the school closest to its home the right of the child to choose the most appropriate school may be jeopardised and the socio-economic boundaries in our society may not be addressed. The **Centre** did not support the use of tie-breakers *per se*, felt random choice has implications for fairness and that distance from school has implications for children from rural areas and will inevitably be subject to challenge.

5.16 The **Human Rights Commission** felt that current sibling relationships should be a consideration in determining admissions but not a determinant of it, citing the potential to perpetuate disadvantage and the limiting of choice for younger siblings. The **Commission** also believed that, in terms of economic (cost) and environmental (transport to school) considerations, it was best that schools serve the nearest geographical area, but in terms of equality the catchment area should be drawn (and ultimately determined by an independent body) so as to ensure, as far as possible, a social mix. On Tie-breakers, the **Commission** thought the advice of the Guidance could be more developed, specifying random selection from within geographical catchment areas drawn so as to contain a mixed social base. The **Commission** also thought that the Guidance should state that any alternative criteria adopted should also avoid conflict with the fulfilment of Human Rights obligations.

5.17 The **NI Commissioner for Children and Young People (NICCY)** welcomed the Eldest Child Criterion but had concerns that the Sibling

Criterion may disadvantage some children who need (e.g. a child with special educational needs) to attend a different school to their sibling. **NICCY** had concerns also that the Feeder/named Primary Criterion could cause oversubscription at certain primary schools (due to relationship with post-primary school) and this may lead to discrimination against certain children. Further information was requested on how schools will choose the primary schools they will prioritise and **NICCY** argued that there must be consultation on this selection, a process for appealing it, and for DE to be able to intervene where necessary. **NICCY** also asked if the Parish Criterion is only for use by Catholic Maintained schools, felt that there must be consultation with children and parents on decision to use this criterion and further asked if DE will issue guidance to schools outlining how they may choose to include parish in their criteria.

5.18 On the Catchment Criterion, **NICCY** asked if DE, as recommended by Costello, commissioned demographic and geographic research in order to inform how geographic factors should be expressed in the menu of criteria and, if so, what consideration was given to the findings in developing the Guidance? **NICCY** had concerns that Catchment Criterion may reduce choice and may lead to socio-economic segregation, but welcomed the stipulation that this criterion be used with the Nearest Suitable School Criterion – although **NICCY** requested more information and clarity on the latter. **NICCY** urged DE to issue guidance on how catchment areas will be determined. It also asked why criteria about children of school staff and “compelling individual circumstances” (social/welfare/other personal reasons) not been included in the recommended menu. On the issue of Tie-breaker criteria, **NICCY** felt that random selection may only be appropriate where consideration of the child’s needs or circumstances had failed to distinguish applicants.

5.19 The **Social Democratic Labour Party (SDLP)** generally welcomed the menu of recommended criteria.

5.20 The **Governing Bodies Association (GBA)** response welcomed the inclusion of family criteria. They also felt that the application of geographical criteria may lead to parents not being able to choose a school suitable for their choice, may disadvantage rural children and was driven by Transport rather than educational policy.

### **Preference Criteria**

5.21 The Transfer 2010 Guidance and its menu of recommended criteria said nothing on the issue of preference-based criteria, other than to note (at Paragraph 10) that the lapsing of regulations meant that there would no longer be “a prohibition on the use by schools of criteria giving priority according to the preference given to an application by an applicant”. This drew concerned comment from several schools, and also from the **Equality Commission for NI**, the **SDLP**, **NEELB** and **CCMS**. The various reasons for this concern were that the use of preference criteria would be unfair, retrograde, would lead/add to disadvantage and would constrain parental preference into a tactical use of preference. **SELB** raised the effect that the availability and use of this criterion may have on applicants’ use of preference, leading to a potential contradiction with existing policy on qualification for Transport Assistance. A very small number of school respondents, however, welcomed that this form of criterion was no longer prohibited and stated an intention to use it. **NICIE** also welcomed the new availability of this criterion.



## CHAPTER 6

### COMMENTS ON OTHER RELATED SUBJECTS

- 6.1 **Demography:** a number of respondents (a small number of schools, the **National Association of Schoolmasters and Union of Women Teachers (NASUWT)**, and the **Equality Commission for NI** expressed concerns that the Guidance will not address or may exacerbate the problems caused to schools, particularly non-selective schools by demographic decline and may make area-based planning and collaboration more difficult.
- 6.2 **Targeting school funding:** St Mary's College - "resources must follow those pupils most in need of access and support" - suggested either a more generous Age Weighted Pupil Unit (the AWPU forms part of the common funding formula) for such pupils where certain schools are taking more than their fair share, or ensure a more even distribution of such pupils. The **NI Council for Voluntary Action (NICVA)** commented that disadvantage and underperformance should be tackled at an earlier stage than post-primary transfer and stressed the need for early years targeted investment and smaller class sizes at primary level. Many of the responses of the **general public** that supported the Guidance considered that the current system of school funding was imbalanced and asked for a review of the Common Funding Formula.
- 6.3 **Exceptional Circumstances:** many respondents (schools, the **Education and Library Boards (ELBs)**, the **Governing Bodies Association (GBA)**, the **Council for Catholic Maintained Schools (CCMS)** welcomed the introduction, for Transfer 2010, of a new Exceptional Circumstances Body to which parents can apply for a direction that, on the grounds of "exceptional circumstances", their child is to be admitted to a specific, grant-aided post-primary school (Paragraph 13 of Transfer 2010 Guidance). Most respondents who

commented on this also urged DE to provide further detail on this Body as soon as possible. **CCMS** asked for the detail by autumn 2009.

6.4 The **ELBs** were particularly concerned about the time available to have Exceptional Circumstances Panels established. They were concerned also to have detail on how the procedure will operate in the context of the standard applications process, whether it will be limited in terms of the number of children it can admit, and suggested remuneration for panel members. The **SEELB** asked for clarity on whether a child admitted by exceptional circumstances would qualify for Transport assistance. The **NI Human Rights Commission** urged DE to consider, in their development of Exceptional Circumstances grounds relating to victims of bullying, families forced to move as victims of violence and intimidation, and nomadic travellers.

6.5 **CCMS** noted various ways in which supernumerary admissions may take place in 2010: Exceptional Circumstances, Statemented Pupils, Appeals Tribunal directions. **CCMS** was concerned that this created the potential for some schools to manipulate processes to secure supernumerary admissions and also may place pressure on the physical capacity of school buildings. **CCMS** therefore urged the Department to ensure that processes for designating supernumerary enrolments are robust. Some schools asked for clarity about whether pupils admitted under Special Circumstances or Special Provision would be supernumerary.

6.6 **Criticisms of/ Comments on the Consultation Process:** the **Children's Law Centre** was concerned that the Equality Impact Assessment (EQIA) of the Transfer 2010 Guidance was not carried out alongside and incorporating the Guidance itself and felt this to be a repeat of flawed process criticised in 2005. It felt that the "failure by any designated public body to consult on a policy, such as the Transfer 2010 Guidance, without carrying out an EQIA at the appropriate initial stage is contrary to the letter and spirit of section 75 of the NI Act." The **NI**

**Commissioner for Children and Young People (NICCY)** enquired after further information on how DE has sought the views of children and young people at this stage of the consultation and questioned how the Transfer 2010 Guidance has been influenced by previous research, reviews and consultations. NICCY sought assurance that the consultation responses will be given full consideration in the development of final Guidance and requested further information on the timeframe for reviewing the Guidance.

- 6.7 **CCMS** felt that it was unfortunate that this consultation was taking place in a context where there was little appreciation of the new kinds of post-primary education (changes in the curriculum, changes in response to demographics) which might emerge in the course of the next few years. CCMS urged the Department to increase both professional and public awareness of the new environment promised by “Entitled to Succeed”.
- 6.8 **Transport:** the ELBs stressed that a review of Transport policy was required for Transfer 2010 in relation to a number of new issues that would/may present in that year: Entrance Tests, Exceptional Circumstances, preference criteria. The **Equality Commission for NI** also stressed that pupils and parents need information on transport (including accessible transport) to help make informed choice about the suitability of a school. **CCMS** was concerned that “Governors will be unable to set appropriate admissions criteria unless there is clarity on the implications for school transport and stressed the need for clarity in particular for bi-lateral schools not wishing to test”.
- 6.9 **Transfer 2010 Project Team: BELB, SEELB, NEELB and SELB** highlighted the volume of work that will be required over the next few months (and its resource implications) if Transfer 2010 is to operate smoothly. This, BELB stressed, will require prompt action and decision-making from DE. Opportunities for efficiencies must be taken (the issuing of placement letters if conducted by schools would free-up the ELBs/ ESA at a crucial time), training must be provided for Boards/ESA

staff, primary and post-primary schools and Tribunal Members. BELB, SEELB, NEELB, SELB asked if a dedicated project team could be established to take forward Transfer 2010. SELB attached to their response a draft timetable for the passage of Transfer 2010 aimed at giving the maximum clarity and guidance to the system (and prescribing a strong managerial role for DE and ELBs/ESA). The BELB, SEELB, NEELB, SELB also raised the difficulties inherent in ESA taking up their Transfer functions halfway through the Transfer 2010 process.

6.10 **Determination of preferences in the applications process:** the **Equality Commission for NI** commented that DE “needs to consider how preferences are determined that ensure the child’s best interests are put first and that this is not framed inappropriately due to a child’s circumstances e.g. by making assumptions about the aspirations and abilities of certain groups such as travellers.”

6.11 **Compulsory School-age:** **BELB, SEELB, NEELB** and **SELB** asked if DE could clarify that the Guidance only applies to children of compulsory school age.

6.12 **CCMS** noted with concern the potential for inequality inherent in grammar schools’ new ability to increase the numbers admitted to their Boarding Departments.