

**GUIDANCE TO PRIMARY SCHOOL PRINCIPALS, POST-PRIMARY SCHOOLS'
BOARDS OF GOVERNORS AND PRINCIPALS,
AND THE EDUCATION AUTHORITY
ON THE PROCESS OF TRANSFER FROM
PRIMARY TO POST-PRIMARY SCHOOL
FROM SEPTEMBER 2016**

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PURPOSE OF THIS GUIDANCE

1. This guidance sets out a framework for the procedure for the transfer of children from primary to post-primary school from September 2016. The aims and objectives of the arrangements for the admission of these pupils to post-primary schools, as set out in this guidance, will be:
 - that admissions decisions are fair and give each child the opportunity to reach his/her full potential;
 - that the overall arrangements for admissions, and within that the respective roles of the Department, the Education Authority and primary and post-primary schools' Boards of Governors are clear and understood; and
 - that post-primary schools' Boards of Governors achieve robust and accurate admissions decisions.
2. This guidance applies equally to all schools that operate transfer processes within the Dickson Plan system – at both age 11 and age 14

THE LEGAL STATUS OF THIS GUIDANCE

3. This guidance is issued by the Department of Education under Article 16B of the Education (NI) Order 1997 – as amended by Article 30 of the Education (NI) Order 2006 and Schedule 3 to the Education (NI) Act 2014 – 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:

Boards;*

The Boards of Governors of grant-aided schools;

Appeal tribunals constituted in accordance with regulations under Article 15(8); and

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

Each of the bodies mentioned in paragraph (1); and

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”.

****Under the Education Act (Northern Ireland) 2014 the Boards have now been replaced by the Education Authority.***

4. Primary schools, the principals and Boards of Governors of post-primary schools and the Education Authority will, therefore, be required to have regard to this guidance. Boards of Governors and others addressed by this guidance should understand that the duty to have regard to this guidance is a legal one. In practical terms this duty, for a post-primary school's Board of Governors, means that in drawing up admissions criteria they should give active and receptive consideration to the guidance's recommendations on admissions criteria and record this consideration.
5. 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 Education Authority that have a legislative basis in their own right. Also excepted from this guidance is the transfer of children in possession of a statement of special educational needs. The transfer of such children is provided for in legislation and lies outside of open enrolment procedures in order to ensure that such children are provided with the most appropriate school placement and that their needs are met.

THE TRANSFER PROCESS

6. The roles and responsibilities of the Department, the Education Authority, primary schools and post-primary schools and their Boards of Governors are set out in the most recent version of the Department's operational circular on post-primary transfer.

LEGAL CONSIDERATIONS IN SETTING ADMISSIONS CRITERIA

7. There is a duty upon the Board of Governors of every school to ensure any admissions criteria they use are legally based.
8. Where schools are not oversubscribed, they all have the same obligations to admit applicants to all available places – the only exception being where, for year groups other than Year 8, a post-primary school's Board of Governors can demonstrate "that the admission of the child to the school would prejudice the efficient use of resources" (Article 13 of the Education (NI) Order 1997).
9. Notwithstanding all of the above considerations, this guidance makes recommendations to all post-primary schools' Boards of Governors on the admissions criteria they should and should not use. All schools are obliged to have regard to these recommendations.

APPROPRIATE ADMISSIONS CRITERIA

10. Reflecting public support for academic selection to grammar schools, the Department supports the right of those schools wishing to use academic selection as the basis for admission of some or all of their pupils to do so. The Department believes that academic selection has the potential to enable social mobility and gives every child an opportunity of gaining access to the most appropriate school to meet their needs and enhance their life chances. Selective schools drive high-level educational outcomes and support high aspiration in families and communities; the operation of academic selection is preferable to access to a grammar school being directly dependent upon a family's means or address.

11. Note: as any change in the use of academic criteria for admissions selection for a school, either through removal or new adoption of such criteria, requires the approval of a Development Proposal, only those schools that are already using academic criteria as part of the selection for admissions process are currently entitled to do so.

Recommended criteria:

12. For the admission of all children of compulsory school age, the Department recommends that Boards of Governors of post-primary schools draw up their admissions criteria from the following menu of recommended criteria (all schools are obliged to have regard to these recommendations):

- 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. Any school using this one **must** list it as the first criterion.
- Applicants who have a sibling currently attending the school;
- Applicants who are the eldest child;
- Applicants from a feeder/named primary school;
- Applicants residing in a named parish (with nearest suitable school);
- Applicants residing in a geographically defined catchment area (with nearest suitable school);
- Applicants for whom the school is the nearest suitable school;
- Tie-breaker criteria.

13. Further detailed information in relation to each of the recommended criteria is provided in the most recent version of the Department's operational circular for post-primary transfer.

ADMISSIONS CRITERIA THAT ARE NOT RECOMMENDED

14. The Department recommends that schools do not use any of the following criteria:

- Familial criteria beyond current sibling: the reason why only current sibling is recommended, and not other family connections, is because of the need to serve the interests of parents, children and families without disadvantaging other applicants. There are practical reasons why priority should be given to educating siblings at the same school. Other familial connections which have no such practical purpose (e.g. parent was a former pupil) should therefore not be used.

- Distance tie-breakers: distance tie-breakers are not recommended because they will disadvantage rural/outlying applicants and will undermine those aspects of the recommended menu of criteria designed to ensure that these applicants are treated fairly.
- Children of employees/governors of a school: notwithstanding the ability of this criterion to provide convenience for a small number of families, it makes admissions priority a benefit of service or employment. Schools exist to serve the community, not their employees. The 'Conflicts of Interest: A Good Practice Guide', published by the Northern Ireland Audit Office in March 2015, is relevant. This is available online at https://www.niauditoffice.gov.uk/sites/niao/files/media-files/conflicts_of_interest_good_practice_guide.pdf
- Preference Criteria: DE strongly recommends to all Boards of Governors that, whilst preference criteria (i.e. the prioritising of applicants according to the level of preference of their application – 1st, 2nd, 3rd etc) may no longer be explicitly prohibited, they should not in the interests of open enrolment policy be used by any school at any stage. The principle of open enrolment and of parental choice is that parents should be able to express their preferences of school for their child in an unfettered manner. The use of preference criteria will mean that the manner in which parents and children express these preferences will affect their prospects of admission. This will inevitably compel parents and children to express their preferences tactically. It will restrict parental choice.
- Criteria related to compelling individual circumstances: it is recognised that no set of admissions criteria can deal with every eventuality and that it is important to have arrangements that can take account of compelling individual circumstances. To address this issue, the Department established the Exceptional Circumstances Body (ECB) in 2010 to consider applications from parents who feel that their child must attend a particular post-primary school for exceptional or compelling reasons, but an application made through the normal process has been unsuccessful. The ECB operates independently from the Department and its members have the necessary expertise in the field of education and/or the welfare of children to make decisions on these often complex cases. In the interests of consistency of approach, it is strongly recommended that these cases are dealt with by the ECB and not by the Boards of Governors of individual schools. Schools should not therefore include 'exceptional/special circumstances'* related to, for example, 'medical, social or security factors' in their admissions criteria.

*Schools should note that this does not apply to the 'Special Circumstances Procedure' described in Annex 1 – Advice on issues related to tests.

ROLE OF PRIMARY SCHOOLS

15. Primary schools play a crucial role in the educational development of all children. This role is to ensure that the primary stage of every child's educational development (fundamental to all subsequent stages of educational development) is completed.
16. All primary schools have statutory obligations to deliver the primary curriculum (as defined in Articles 4-9 of the Education (NI) Order 2006). The school may facilitate entrance test

arrangements by supplying support materials, carrying out any preparation for tests during core teaching hours, coaching in exam technique, providing a location for testing where mutually agreed with the test provider, and/or providing familiarisation with a testing environment, consistent with its statutory obligations. Schools are free to exercise this right in line with the wishes of parents and pupils. The Education and Training Inspectorate will continue to monitor the quality of teaching and learning in primary schools in the context of the statutory curriculum.

17. Where post-primary schools have a Special Circumstances procedure for the application of academic admissions criteria that requires parents to provide information relating to their child's performance, primary schools should be clear that:

- Parents/guardians have a legal right to any information that is held by a primary school that relates solely to their child;
- Schools are not required, in law, to provide information in a specifically requested format;
- Schools should not provide performance information to parents or guardians relating to any child other than their own;
- Schools should not, under Data Protection law, directly provide performance data relating to any of their pupils to any other school.

APPEALS

Admissions Appeal Tribunals

18. The Education Authority will administer independent admissions appeal tribunals. Parents will be advised on how to apply to an admissions appeal tribunal in the placement letter they receive at the end of the admissions process.

Exceptional Circumstances Process

19. In 2010 the Department established an Exceptional Circumstances Body to provide a mechanism to consider the cases of a small group of children with exceptional and compelling circumstances, particular to the individual child, that require admission to a specific post-primary school, but where the child is unable to secure such admission through the application of the school's admissions criteria. The Body can consider applications from parents in relation to situations where a non-statemented child seeking admission to Years 8-12 has not, through the normal processes, gained a place in the specified school, and it is asserted by the parents that the child must attend that school, and that school only. If an application is upheld by the Body, it will use its power to direct admission on a supernumerary basis. Parents are advised on how to obtain further information about the process and how to apply to this Body in the placement letter they receive at the end of the admissions process or on the NIdirect website at www.nidirect.gov.uk. Parents can make applications to this Body in parallel with applications to an admissions appeal tribunal.

CONCLUSION

20. This guidance sets out the information required by a post-primary school to help it determine its criteria for admissions from September 2017. This should enable it to give certainty and clarity to all future applicants. Primary school principals and staff should also be clear on the nature of the process.

ANNEX 1 - ADVICE ON ISSUES RELATED TO TESTS

ADVICE ON ISSUES RELATED TO ENTRANCE TESTS

1. Where a Board of Governors is planning to use an entrance test or tests in order to support academic admissions criteria, then it has a legal responsibility to use a test that enables it to discharge its existing obligations. Article 13(5) of the Education (NI) Order 1997 provides that the admissions criteria drawn up by post-primary schools' Board of Governors must be capable of enabling them to admit the number of applicants exactly equivalent to their admissions and enrolment numbers as set by the Department – *i.e.* the criteria must be capable of distinguishing between applicants right down to the last available place. It follows, therefore, that if one of the criteria drawn up by a Board of Governors will distinguish between applicants according to their performance in an entrance test, that test must be robustly capable of providing, or contributing to, the basis for such distinctions. In the light of this, the Department advises any Board of Governors planning to use a test of its responsibility to assure itself that that test will be a robust assessment mechanism capable of providing for sound ability-based decisions.

2. Appropriate security arrangements for test materials are obviously vital but these security arrangements should not just consist of ensuring that all reasonable efforts are made to avoid a breach in test security. Accompanying such reasonable efforts, contingency arrangements need to be in place for the occurrence of such a breach. The only appropriate contingency arrangement for a test that has been invalidated due to a security breach is a reserve arrangement that, just as much as the original test, will be a robust assessment mechanism capable of providing for sound ability-based decisions.

3. Schools planning to use an entrance test should make all reasonable and comparable efforts to ensure that all parents/children who may wish to can receive and understand all of the necessary information. They should also be aware of the need to communicate the availability of the test to parents in minority groups such as Travellers, and to those parents who do not have English as their first language.

4. The Department would advise any schools intending to charge parents for entering their child to sit a test, whether means-tested or not, to consider whether parents should have to pay in order to apply meaningfully for a state school.

5. The Department advises any school planning to use an entrance test to consider making provision within their plans for the availability of an Irish equivalent to their English test. The risk to schools that do not provide this equivalent, and to the adequate standard, is the threat of legal challenge to their admissions process on the grounds of indirect discrimination.

6. Schools using an academic criterion requiring an entrance test should understand the critical importance of such a process being supported by a Special Circumstances Procedure dealing with circumstances beyond the control of the candidate (e.g.

bereavement, accident or illness) that on the day of the test may have led to that candidate's performance being adversely affected.

7. Schools using tests within their admissions should be mindful of disability discrimination, as 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. For advice on this, schools should refer to Section 3 of the guidance published by the Equality Commission entitled "What equality law means for you as an education provider: schools" which is available online at <http://www.equalityhumanrights.com/publication/what-equality-law-means-you-education-provider-schools>

8. Schools using tests within their admissions should consider the provision of the test paper in a variety of formats designed for the needs of non-statemented children with dyslexia/dyspraxia.

9. Schools using tests within their admissions should also understand the role of a 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 test aligned with our curriculum. It was also provided for children who made a "mid-year" application to a selective school.

10. Schools using entrance tests should make fair and robust admissions decisions on applicants who have not been able to sit a test or who cannot be assessed fairly by such a test.

11. Admissions determined by procedures in support of entrance tests (Special Circumstances Procedures, Special Provisions Procedure), or by the application of any admissions criteria are never supernumerary: they always count towards a school's admissions and enrolment number.