

CIRCULAR 1996/24

TO: Principals and Boards of Governors
of all grant-aided schools, Education
and Library Boards, Council for
Catholic Maintained Schools



30 August 1996

GUIDANCE ON THE ARRANGEMENTS FOR THE TRANSFER OF PUPILS FROM PRIMARY TO SECONDARY EDUCATION OTHER THAN AT THE NORMAL AGE

INTRODUCTION

1. The purpose of this Circular is to provide guidance about and explain the new procedures for the approval of pupils transferring from primary to secondary education either a year earlier (underage pupils) or a year later (overage pupils) than they would normally be required to transfer.
2. Circulars 1990/52 and 1993/39 are hereby cancelled.

Existing arrangements

3. Article 46A of the Education and Libraries (NI) Order 1986 (the 1986 Order), as inserted by Article 156 of the Education Reform (NI) Order 1989 (the 1989 Order), specifies the age at which a pupil must transfer from primary to secondary education. Where a pupil's eleventh birthday falls:
 - on or between 2 July and 31 August in any year the pupil shall commence secondary education on 1 August of the following year;
 - on or between 1 September in any year and the following 1 July the pupil shall commence secondary education on 1 August of that following year.

Any exceptions to these arrangements are currently subject to approval by the Department.

Summary of changes

4. The Education (NI) Order 1996 amends Article 46A of the 1986 Order to introduce changes to enable the Board of Governors of a pupil's primary school to decide whether a pupil should transfer to secondary school a year earlier or a year later



than the normal age; **there is no change to the age at which pupils normally transfer.** The changes will enable decisions to be made taking account of local advice; it will no longer be necessary to seek the Department's approval. The Department expects that the changes will enable the decisions to be made more quickly and effectively.

5. The changes take effect from 1 September 1996. They do not affect pupils who transferred at the end of the 1995/96 school year, including those pupils transferring a year early, or those pupils staying on in primary school for an extra year in 1996/97 and for whom the Department has issued a direction under Article 46A before 1 September 1996. **Principals should now arrange for their Boards of Governors to consider urgently the cases of any pupils who are of P7 age in 1996/97 and who are being taught with a P6 class and those of any pupils who are not of P7 age in 1996/97 but are being taught with a P7 class.** This is particularly important if the parents wish to seek a grammar school place, as decisions will have to be made early enough to enable the child to be entered for the 1996/97 Transfer tests should the Board of Governors decide that it is in the child's best interests to transfer to secondary education at the end of the 1996/97 school year.

6. **The arrangements do not apply to pupils who are the subject of statements of special educational needs maintained by an education and library board;** the transfer of such pupils from primary to secondary education will continue to be a matter for the education and library board to determine under the arrangements for the review of statements of special educational needs.

7. **The arrangements do not apply to pupils attending independent schools.** A grant-aided school receiving applications for admission from underage or overage pupils attending independent schools should consider each application against the school's admissions criteria.

8. In summary, the new arrangements require the Board of Governors of a primary school to decide whether a pupil should transfer from primary to secondary education -

(a) **a year earlier than normal** - the decision is to be taken early enough to enable the pupil to be entered for the Transfer tests if a place in a grammar school is being sought. The Principal of the primary school will provide advice to the Board of Governors to enable them to make the decision and the parents must agree that the child should transfer a year early;

(b) **a year later than normal** - the decision is to be taken at the end of the year which is Year 5 for the majority of the children with whom he or she is being taught. The Board of Governors will consider advice from the Principal and from



the Education and Library Board and the parents must agree that the child should transfer a year later than normal.

Full details of the arrangements are set out in the Appendix.

NORMAL PATTERN OF SCHOOLING

9. The majority of pupils in primary education will progress through school with the year group with which they became of compulsory school age (in this circular referred to as the pupil's "normal age group") and transfer to secondary education at the appropriate age (see paragraph 3). The statutory curriculum is sufficiently wide and flexible to provide teaching and learning opportunities to cater for the ability and progress of the great majority of pupils in the year group. It should only be in the most exceptional circumstances that a child should be placed in a year group either a year ahead of or a year behind the normal year group. Such decisions (and particularly a decision to place a child a year behind) have implications for the remainder of the child's education; a Principal making such a decision must be satisfied that it is in the child's best interests in the long term as well as in the short term.

10. In all cases where a child is being taught with pupils a year behind his or her normal age group, the aim must be to seek to re-integrate the child with his or her normal age group as soon as possible and **the Department recommends that primary school Principals should review all such cases annually**. In carrying out such a review the Principal should discuss the child's progress with his or her parents and should remind them of the implications of the child remaining with the younger age group (see paragraphs 3.1 and 3.6 of the Appendix).


11. Principals should remind parents that under the new arrangements it will be the Board of Governors who will make the decision whether the child transfers a year early or a year later than normal. Having considered all the advice available, the Board of Governors **may** decide that it is in the child's best interests to transfer at the normal age. For a child placed in a year group behind his or her normal age group, this would mean that, if the parents wish the child to be considered for a grammar school place, he or she would have to take the transfer tests without having followed the work in Year 6. In all but the most exceptional circumstances (for example, a child of high ability who has suffered a long period of illness) it is extremely unlikely that such a child would be able to cope with the academic demands of a grammar school education. It is important that Principals should make parents aware of this and that it may not be in the child's best educational interests to take the Transfer tests.

12. For short-term problems, Principals of schools have certain powers to permit temporary exemptions from the curriculum requirements to deal with a wide range of

circumstances where a departure from the normal pattern is in the best interests of the pupil. The Department expects these powers to be used with great care and with all efforts directed, during the period of exemption, to enabling the pupil to resume work with his/her normal year group. Circular 1990/45 provides advice on the arrangements for temporary exemptions.

13. The guidance in this Circular does not constitute an authoritative legal interpretation: that is exclusively a matter for the Courts.

14. Any enquiries about this Circular should be addressed to the Department of Education, Open Enrolment and Transfer Branch, Rathgael House, Balloo Road, Bangor BT19 7PR, telephone 01247-279249.



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APPENDIX

1. ARRANGEMENTS FOR APPROVING EARLY OR LATE TRANSFER

1.1 The 1996 Order provides that the decision to approve a pupil's transfer a year earlier or a year later than normal must be taken by the Board of Governors of the school at which the pupil is registered. It also provides that this function may **not** be delegated to the Principal or any other member of the teaching staff of the school. In this respect the 1996 Order overrides any provisions in the approved schemes of management for grant-aided schools relation to the functions which may and may not be delegated to the school's Principal.

1.2 The 1996 Order also provides that a Board of Governors may approve a pupil's transfer a year earlier or a year later than normal provided it is satisfied that such transfer is in the best interests of the pupil and provided the parent of the pupil agrees with that opinion. The requirements on Boards of Governors are different for early and late transfer, and are set out in paragraphs 2 to 4.

1.3 Paragraph 5 sets out the arrangements to be followed where a pupil is not a registered pupil in any school.

1.4 In this circular the word "parent" has the same meaning as in the Education and Libraries (NI) Order 1986 ie in relation to a child it includes a guardian and every person who has actual custody of the child. From 4 November 1996 this definition will be amended by the Children (NI) Order 1995: a further circular will issue in due course to explain the changes.

2. PUPILS TRANSFERRING A YEAR EARLIER THAN NORMAL

2.1 The Order requires that where a pupil is being considered for early transfer the Board of Governors must consider advice from the Principal of the school; such advice must be in writing. The Board of Governors may also consider any other advice submitted to it by the parents. The Order also requires that early transfer is subject to the parents' agreement.

2.2 The Board of Governors may delegate to the Principal the task of obtaining the parents' agreement that the pupil should transfer a year early. Such agreement must be obtained in writing and presented to the Board of Governors together with the Principal's advice. The Department recommends the use of the attached pro forma for the purpose of recording the parents' agreement; the school may, however, use a different pro-forma or method of recording their agreement if it so wishes.

2.3 The parents of a pupil may request that the he/she be permitted to transfer early. In such cases the Principal should forward to the Board of Governors, for consideration, the parents' request, including their reasons, and any supporting information provided by the parents, together with the Principal's own advice on the suitability of the pupil for early transfer.

2.4 It is likely that in many cases a pupil who is being considered for early transfer will have been taught for some years with the year group ahead of his or her normal year group. In such cases requests for approval to early transfer will normally be initiated by the school Principal, and he or she should discuss the pupil's transfer with the parents before providing advice to the Board of Governors, together with the parents' written agreement.

2.5 It is important that the Board of Governors is able to consider whether the pupil will be able to cope with the demands of secondary education in terms of his or her academic ability and attainments and also in terms of his or her emotional and social maturity; the advice from the Principal should enable the Governors to make decisions about the child's ability to cope with these demands.

Timing

2.6 Pupils transferring a year early must have the opportunity to sit the Transfer tests if a place in a grammar school is being sought. The Board of Governors should therefore make such decisions in sufficient time to allow the pupil to be entered for the tests. Principals should arrange to discuss all such pupils' progress with parents at a date early enough to facilitate this and to ascertain parents' wishes in the matter.

Submission of Principal's advice to Board of Governors

2.7 In all cases the Principal's advice to the Board of Governors should consist of a summary of the pupil's ability, attainments and progress together with the Principal's views on the points in paragraph 2.8. It should also include details as to when he or she was placed in the year group ahead of the normal year group and the reasons for so doing.

Consideration by Board of Governors

2.8 If the Board of Governors decides that the child should transfer a year earlier than normal the Board of Governors must be satisfied that:

- the pupil has demonstrated that he or she can work comfortably within the range of ability of the year group of pupils with whom he or she will transfer;

- the pupil has displayed the necessary level of maturity;
- transferring to secondary education a year earlier than normal is likely to be in the best interests of the pupil;
- the parents of the pupil agree that their child should transfer a year early.

2.9. It follows therefore that the Board of Governors should **not** form the opinion that a pupil should transfer a year early if it believes that the reason is to provide him or her with an early opportunity of sitting the Transfer tests or if the sole reason is that the pupil was not placed in the appropriate year group on entry to the school.

2.10. Pupils transferring a year early may transfer to either a grammar school or a non-grammar school; where a grammar school place is being sought the pupil must be entered for the Transfer tests in the normal way.

Record of decisions

2.11. The decision of the Board of Governors must be recorded in writing, together with the reasons for that decision. The Board of Governors must convey its decision, together with the reasons, to the Principal, to the pupil's parents and to the Transfer Officer of the relevant education and library board. The decision should also be recorded in the pupil's formative record of progress and achievement.

3. PUPILS TRANSFERRING A YEAR LATER THAN NORMAL

3.1 Retaining a pupil in primary school for an extra year is a significant decision which will have implications for the remainder of his or her education. The Board of Governors must be satisfied that such a step is in the best interests of the pupil: it is extremely unlikely that, once in secondary school, a pupil would be able to be re-integrated with his or her normal age group.

3.2. Only in very exceptional circumstances will it be in the pupil's best interests to be taught with the year group behind the normal year group. Examples of these are:

- where a pupil has had a prolonged period of illness, usually during Key Stage 2, and the length of the absence is such that the missed work cannot reasonably be made up in the normal time remaining in primary education;
- where a pupil has suffered severe emotional trauma, for example resulting from neglect or abuse, and professional opinion recommends a further year in primary education;

- where a pupil is temporarily resident in Northern Ireland and will be returning to a school system where transfer to secondary education occurs at a different stage;
- where a pupil has recently moved to Northern Ireland and his or her lack of command of English would necessitate a further year in primary education.

This list is illustrative; it is not meant to be exhaustive.

Learning difficulties or emotional immaturity in a pupil who is being taught in a class with his or her normal age group should not, of themselves, constitute an acceptable reason for retention in primary school for a further year.

3.3 The Order requires that, in making its decision, the Board of Governors must take account of the views of the education and library board in whose area the school is situated. It also requires that the transfer of a pupil a year later than normal should be subject to the parents' agreement (again the attached pro forma may be used to record this). The functions of obtaining the advice of the education and library board and the agreement of the parents may be delegated to the Principal of the school.

Timing

3.4 It is likely that a pupil being considered for late transfer is being taught with the year group behind the pupil's normal year group. The Board of Governors may form the opinion that it is **not** in the pupil's best interests to transfer a year later than normal, and therefore consideration of the pupil's circumstances must be given in sufficient time to allow the pupil's application for admission to secondary school to be processed under the open enrolment arrangements.

3.5 Moreover, there may be some **exceptional cases** where the parents of such a pupil would wish to seek a place for him or her in a **grammar school**; such cases will be rare (see paragraph 11 of the Circular). Boards of Governors must consider all such cases in sufficient time to allow the pupil, if necessary, to be entered for the Transfer tests. **All such cases should therefore be considered in the final term of the year which is Year 5 for the majority of the class with whom the pupil is being taught.**

Procedures

3.6 The Principal should discuss the date of the pupil's transfer with the parents and should explain the implications of such a decision, **in particular that it is likely that he or she would need to remain in education for a year beyond the upper limit of compulsory education in order to complete the curriculum for Key Stage 4**

and to take public examinations. The Principal should seek the parents' agreement, in writing, for the pupil to be retained in primary school for an extra year should the Board of Governors so decide.

Advice from the Education and Library Board

3.7 The Principal must seek advice from the relevant education and library board. The Principal should provide information to the board about the pupil's ability, attainments and progress, the reasons why he or she is being taught a year behind the normal year group and when he or she was so placed, and why it is considered to be in the pupil's best interests to transfer a year later than normal. A form for this purpose is attached and the Principal should attach any relevant documentation from any other professionals involved in the pupil's case.

3.8 The request from the Principal for advice should be considered by the education and library board, and advice provided to the Board of Governors to assist it to consider whether or not the pupil should be retained for an extra year in primary school. It is a matter for the education and library board to decide whether or not to carry out an assessment of the pupil or whether to rely on the information provided by the Principal together with any information it may already hold about the child's ability, attainments and progress.

Submission of advice to Board of Governors

3.9 A copy of the form submitted to the education and library board, together with any supporting information, should be retained by the Principal. This copy should be submitted to the Board of Governors as the Principal's advice, together with the advice received from the education and library board.

Consideration by Board of Governors

3.10 The Board of Governors is required to consider all the advice submitted to it and form its opinion as to whether the pupil should transfer to secondary education a year later than normal. In forming its opinion the Board of Governors must be satisfied that

- the pupil's level of ability, attainment and progress is well below that expected of pupils in the year group with whom he or she should normally be taught; and/or
- the pupil's social and emotional development is such that it would be detrimental for him or her to transfer to secondary education with the normal year group;



- it is in the pupil's best interests to transfer to secondary education a year later than normal;
- the parents of the pupil agree that late transfer is likely to be in the pupil's best interests and that they understand that he or she should remain in secondary education for a year beyond the upper limit of compulsory education in order to have the opportunity to complete the compulsory curriculum and to sit for public examinations.

3.11 The Board of Governors must **not** form the opinion that it is in the pupil's best interests to transfer to secondary education a year later than normal if it believes that the sole reason is to provide the pupil with an extra year's teaching in preparation for the Transfer Procedure tests or to provide a pupil with a second opportunity to sit the Transfer Procedure tests.

Record of decisions

3.12 The decision of the Board of Governors in each case considered by it must be recorded in writing together with the reasons for that decision. The Board of Governors must convey its decision, and the reasons, to the Principal, the pupil's parents and the Transfer Officer of the relevant education and library board. The decision should also be recorded in the pupil's formative record of progress and achievement.

4. EXCEPTIONS TO NORMAL TIMETABLE

4.1 There may be exceptional circumstances where, for example because of a prolonged illness in Year 6 or Year 7, or because of the arrival of a pupil from another country at a late stage, it is not possible to consider applications in the time-scale in sections 2 and 3. In such cases the Principal and the Board of Governors should make arrangements for the pupil's circumstances to be considered urgently.

4.2 In a case where the advice of the education and library board is required, the circumstances should be made known to the board by the Principal and the board should arrange to provide urgent advice to the Board of Governors.

5. PUPILS WHO ARE NOT REGISTERED PUPILS AT A SCHOOL IN NORTHERN IRELAND

5.1 Separate arrangements are required where a pupil of transfer age arrives from another country and cannot be considered by a Board of Governors because he or she is not a registered pupil in a primary school. In such cases the responsibility for

determining whether the pupil should be placed in primary school or secondary school rests with the education and library board in whose area the pupil is resident. The board should seek to obtain as much information as possible about the pupil's ability, progress and attainments, from the former school and from the parents and, if necessary, carry out an assessment of the pupil. Boards are recommended to nominate a named officer to co-ordinate action in relation to such cases.

5.2 The education and library board will wish to take into account

- the pupil's progress in primary education;
- whether the pupil would have transferred to secondary education if the family had not moved to Northern Ireland;
- whether the family is likely to remain in Northern Ireland;
- if appropriate, the level of the pupil's command of English;
- the results of any assessment carried out by the education and library board;
- the views of the parents;

and decide whether it is in the best interests of the pupil to attend primary school or secondary school. The board should make arrangements for the admission of the pupil to an appropriate school.

5.3 The board should record its decision in writing together with the reasons for that decision and notify the parents, in writing, of its decisions and the reasons.

6. APPEALS

6.1 Part II of Schedule 5 to the 1996 Order provides that complaints that the Board of Governors of a school or an education and library board has acted, or is proposing to act, unreasonably in relation to applications for early or late transfer will be considered by a complaints tribunal of the education and library board. It also provides that a Board of Governors or an education and library board shall not be taken to have acted, or be proposing to act, unreasonably if it has complied with, or is proposing to comply with, this guidance.

6.2 A complaints tribunal can consider only the procedures followed by the Board of Governors or the education and library board; it cannot replace the decision reached with its own decision.

6.3 Where a tribunal upholds a complaint that a Board of Governors has acted or is proposing to act unreasonably in applying the procedures, or considers that any matter concerning the application of procedures should be remedied, the tribunal may include in a notice conveying its decision that the Board of Governors or the board shall take such action as is stated in the notice to remedy the matter. Such a notice is enforceable by the Department under Article 101 of the 1986 Order (as amended by Article 158 of the 1989 Order).

