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INVESTOR IN PEOPLE

TRANSFER 2010



Guidance to

**Primary School Principals, Post-primary School Boards
of Governors and Principals, and Education and Library
Boards/Education and Skills Authority on**

**Post-primary School Admissions
for 2010/11 School Year**

The guidance does two things: in Paragraphs 1-15, it provides a factual description of the legal context in which post-primary admissions will operate (and in which there is much continuity). In Paragraphs 16 – 28 it provides guidance and recommendations to schools on admissions criteria and their operation. Paragraphs 16-28 are issued for consultation and responses to their content are requested for 27 April, 2009. Responses should be sent to Open Enrolment and Transfer Procedure Branch, Department of Education, Rathgael House, Balloo Road, Bangor, BT19 7PR.

SUMMARY

AIMS AND OBJECTIVES OF THE DEPARTMENT OF EDUCATION'S GUIDANCE

This guidance sets out a framework for the procedure for admissions to post-primary schools into the 2010/11 school year. The aims and objectives of the arrangements for the admission of 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 and Library Boards/ Education and Skills Authority, primary schools' 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.

ADMISSIONS CRITERIA

With regard to these three objectives, the guidance below (Paragraphs 16-20) recommends a menu of admissions criteria from which post-primary schools' Boards of Governors should draw up their admissions criteria for admissions into the 2010/11 school year. The recommended menu of admissions criteria is as follows:

Recommended first criterion:

- ❑ 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.

Other criteria:

- Sibling;
- Eldest Child;
- Feeder/named primary school;
- Parish (with nearest suitable school);
- Catchment Area (with nearest suitable school);
- Nearest Suitable School;
- Random Selection (tie-breaker).

CONTINUITY

Otherwise, all involved in the admissions process for 2010 should be assured that the actual process will remain largely unchanged, the major difference being the absence of a Department-provided Transfer Test.

**"Please note that the English language version
of legislation is the only authoritative version"**

CONTENTS

The Contents of this guidance are as follows:

Paragraph

1-2	The legal status of the Department of Education's guidance on admissions	1
3-8	Continuity: how the transfer process will remain largely the same	2
3	The process generally	2
4	The role of the Education and Library Boards/ Education and Skills Authority	2
5	The role of the Department of Education	3
6	The role of post-primary schools and their Boards of Governors:	3
7	The role of primary schools	4
8	Children in receipt of a Statement of Special Educational Needs	5
9-15	Changes: what aspects of transfer 2010 will change?	5
9	"Entrance Tests" for academic-based transfer	5
10-12	The regulation of admissions criteria	5
13-14	A new Exceptional Circumstances Body	6
15	Grammar schools' new admissions obligations	6
16-17	Recommendations on admissions criteria	7
16	The aims and objectives of the admissions process	7
17	The Menu of Recommended admissions criteria	7

18-26	Academic admissions criteria	10
18-19	The legal position and the Department's recommendations	10
20	Consideration of FSME applicants	10
21-23	Communication of and preparation for independent assessment arrangements or "Entrance Tests"	10
24-25	Special Circumstances	11
26-27	Special Provision	12
28	Conclusion	12

THE LEGAL STATUS OF THE DEPARTMENT OF EDUCATION'S GUIDANCE ON ADMISSIONS

1. 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."*

2. 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.

CONTINUITY: HOW THE ADMISSIONS PROCESS WILL REMAIN LARGELY THE SAME

3. **The process generally:** the admissions process will run much as it has done in the past, but the Department will not be providing a test for the purpose of transfer to post-primary education, and recommends that schools do not attempt to use academic admissions criteria. Guidance on how admissions criteria are to be drawn up and applied in the absence of admissions criteria regulations is set out in paragraphs 16 - 20. Otherwise, primary school principals, post-primary schools' Boards of Governors and Principals, ELBs /ESA and ultimately parents and children should be assured that the admissions process to post-primary schools and their role within it will remain largely unchanged.
4. **The role of ELBs/ ESA:** this will remain essentially the same.
 - (a) The process of applying to the post-primary schools in order of an applicant's preference will continue to be administered by the ELBs/ ESA who will retain entirely their established duties in this respect as set out in Articles 9, 15 and 17 of the Education Order (NI), 1997.
 - (b) ELB/ESA Transfer Booklets will continue to issue to parents in November/ December of 2009/ January of 2010 and these will contain each post-primary school's admissions criteria for the admissions process in 2010 (necessarily finalised by that point).
 - (c) The applications process will operate within the same timeframe as at present, with Transfer Forms completed (with the assistance of an applicant's primary school principal) in February 2010, and then submitted to the ELBs'/ ESAs' Transfer Officers. Admissions decisions will issue to applicants towards the end of May 2010.
 - (d) Following the issue of admissions decisions towards the end of May 2010, the ELBs/ESA will then continue to facilitate the operation of the Appeals Tribunals. These Tribunals will receive, consider and make decisions on appeals to the same timetable as before and within the same remit (as set

out in the Education Order (NI), 1997 – i.e. according only to whether a school's admissions criteria were not applied or not correctly applied and according to whether or not, under the correct application of criteria, an appellant would or would not have been admitted).

5. **The role of the Department:** this will remain essentially the same.
 - (a) As per normal, the Department will, in August 2009, issue an admissions circular offering greater detail on the process and exact dates for the forthcoming year.
 - (b) The Department will continue to set the admissions and enrolment numbers for each school – in accordance with the Education Order (NI), 1997 (Articles 11 and 12). Schools will still have the same set of obligations to admit pupils up to their admission and enrolment numbers subject, if necessary, to the application of their admission criteria as set out in Article 13 of the Education Order (NI), 1997. Grammar schools should note, however, the power they previously had to refuse admission to applicants on academic grounds (despite having places available) has been removed from the Education Order (NI), 1997 Order by the Education Order (NI), 2006 (see Paragraph 15).

6. **The role of post-primary schools and their Boards of Governors:** post-primary schools' Boards of Governors will continue to be the statutory admissions authority for their post-primary school. Their duties and responsibilities in respect of admissions and transfer will continue to be defined by Articles 10, 13, 15 and 16 of the Education Order (NI), 1997 (and the only change in these duties and responsibilities will be for grammar schools' Boards of Governors by virtue of the repeal of Article 14 of the same Order and the absence of admissions criteria regulations).
 - (a) Post-primary schools' Boards of Governors will continue to be required to draw up their schools' admissions criteria. As ELBs/ ESA will continue to be required to publish these criteria (and do so each year in November/ December/January) this means that post-primary schools' Boards of Governors will be required to complete the drawing up of their schools' admissions criteria to the same ELB/ESA-determined timetable as before.
 - (b) Having published their criteria, post-primary schools' Boards of Governors will only be able to change them with the approval of the Department.

- (c) Where schools are oversubscribed, post-primary schools' Boards of Governors must select children for admission by application of their published admissions criteria.
- (d) The criteria drawn up by the post-primary schools' Board of Governors must continue to 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.
- (e) The criteria drawn up by the post-primary schools' Board of Governors must continue to give priority to applicants resident in Northern Ireland before all applicants not so resident (subject to the Department's review of this item of legislation).
- (f) Post-primary schools' Boards of Governors will continue to have an obligation to admit an applicant if places are available within the admissions and enrolment numbers as set by the Department – in the case of the enrolment numbers this will be subject to the same "efficient use of resources exception".
- (g) Post-primary schools' Boards of Governors will continue to have an obligation to admit a child if so directed by an Appeals Tribunal; and
- (h) Post-primary schools will, no doubt, choose to run open nights (generally between December and February).

7. **The role of primary schools:** this will remain essentially the same.

- (a) Primary schools will continue to assist parents in advising on the best options for their children and in providing help for completion of the Transfer Form – generally in the form of an interview between the primary school principal and parent(s) in February 2010.
- (b) There will continue to be a single Transfer Form to be completed by parents. Parents will continue to be required to set out their preferred post-primary schools in rank order and continue to be required to include and attach all of the information necessary to their application (information relevant to a post-primary school's admissions criteria, verification documents, etc.). Transfer Forms will continue to be submitted to ELBs/ESA.

8. **Children in receipt of a Statement of Special Educational Needs:** the procedures that operate outside of the Open Enrolment procedures for children in receipt of a Statement of Special Educational Needs will continue unchanged, in order to ensure that such children are provided with the most appropriate school placement.

CHANGES: WHAT ASPECTS OF TRANSFER 2010 WILL CHANGE

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).
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;
 - (c) a prohibition on the use by schools of criteria giving priority according to the preference given to an application by an applicant;
 - (d) regulations stating the maximum numbers that can be admitted to a Boarding Department.
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.

12. Notwithstanding this, this guidance makes recommendations to all post-primary schools' Boards of Governors on the admissions criteria they should and should not use (see Paragraphs 16–20). All schools will be obliged to have regard to these recommendations.
13. **A new Exceptional Circumstances Body:** under Article 29 of the Education Order (NI), 2006, the Department has an entirely new obligation to establish a 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. Accompanying the duty to establish this body the Department has a duty to define, through regulations, what are to be considered "exceptional circumstances" in the course of such applications and directions. The legislation further provides that children that are admitted by virtue of a direction issued by this "exceptional circumstances" body shall not be considered within a schools' admissions or enrolment numbers (i.e. shall be supernumerary for the year of admission in the same manner as children admitted as the result of the direction of an appeals tribunal).
14. While work to define exceptional circumstances and establish a body to consider appeals on the grounds of exceptional circumstances has yet to be completed, cases that are intended to be covered by this provision include: looked-after children, instances where social services make a strong case for a child to attend a particular school (e.g. where a child has been the subject of abuse), or where non-stated medical circumstances may compel attendance at a particular school.
15. **Grammar Schools' new Admissions Obligations:** Article 14 of the Education Order (NI), 1997 has been repealed by Article 27 of the Education Order (NI), 2006, with the effect that from the admissions process in 2010 onward, grammar schools' Boards of Governors will no longer have the ability to refuse admission (despite the availability of places):

"where [they are] of the opinion that admission of the child to the school would be detrimental to the educational interests of the child; and

where [they are] of the opinion that the academic ability of the child is not of a standard equivalent to that of the pupils with whom he would be taught at the school."

or, in other words, where grammar schools are not oversubscribed, they will have the same obligations to admit applicants to all available places – in the established manner of all non-grammar schools (i.e. the only exception being where, for year-groups other than year 8, a post-primary schools' Board of Governors can demonstrate "that the admission of the child to the school would prejudice the efficient use of resources" (Article 13, Education Order (NI), 1997).

RECOMMENDATIONS ON ADMISSIONS CRITERIA

16. **The aims and objectives of the admissions process:** as stated in the summary at the start of this guidance, and in accordance with its power in respect of this guidance (see Paragraph 1) the Department considers the aims and objectives of the arrangements for the admission of pupils to post-primary schools to be:
- 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.
17. **The menu of recommended admissions criteria:** in respect of these objectives, 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):

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

Other Recommended Criteria (in no particular order)	Notes
Sibling	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.
Eldest Child	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.
Feeder/named primary school	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 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.
Parish (with nearest suitable school);	This criterion to be defined as "children who reside in a named parish".
Catchment area (with nearest suitable school)	<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</p>

	<p>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>
Nearest Suitable School;	<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 secondary", "Irish-medium" and "Integrated".¹</p>
Random Selection (tie-breaker).	<p>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.</p>

1 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."

ACADEMIC ADMISSIONS CRITERIA

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.
19. The Department considered the previous Transfer Test (provided in Irish and English) 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.
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 criteria (for FSME applicants) from the menu of recommended criteria at Paragraph 17.
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.

22. Any school attempting to use academic criteria will need to ensure that all parents have access to information about their Entrance Test.
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. The Minister is writing in these terms to all schools.
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.
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.

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.
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.

CONCLUSION

28. The Department considers that, in possession of this guidance, a post-primary school has the information it needs in order to help it determine its admissions criteria for admission into the 2010/11 school year. 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.

