

To: Principals and Boards of Governors of all
Grant-Aided Schools; (Nursery, Primary and
Post Primary),
Preparatory Departments of Grammar Schools;
Proprietors of Independent Schools;
Education and Library Boards;
The Council for Catholic Maintained Schools and
Comhairle na Gaelscolaíochta

11 October 2007

Dear Colleagues

This guidance sets out the Department of Education’s recommendations on schools’ “duty to verify” information contained within applications for admission, as confirmed by a recent Judicial Review. The recommendations on the “duty to verify” are likely to affect all grant-aided primary schools regardless of whether they themselves are required to verify information within applications.

What Boards of Governors should do now:

As a matter of urgency you should determine whether or not action needs to be taken in the light of this guidance. The guidance details the nature of your potential responsibilities and, in Part 2, provides a plan of action taking you through the decision making process you should follow. If you need to adjust your entry in your Education and Library Board’s (ELB) admissions booklets, you must advise your ELB of your changes or make a nil-return no later than 24 October 2007. A failure to return this information within this timescale will jeopardise the timely publication of the ELB booklets.

Any queries you may have on the content of this letter and attached guidance should be addressed to the relevant ELB Transfer Officer, or to the Open Enrolment Branch in the Department of Education.

PRIMARY SCHOOL ADMISSIONS: GUIDANCE ON A PRIMARY SCHOOL'S "DUTY TO VERIFY"

This guidance is in advance of the soon-to-issue annual circular advising you of the Open Enrolment Procedures for 2008/09 and should be considered as complementary to that circular. It sets out the Department of Education's recommendations on primary schools' "duty to verify" information contained within applications for admission, as confirmed by a recent Judicial Review. The recommendations on the "duty to verify" are likely to affect all primary schools regardless of whether they themselves are required to verify information within applications. All primary schools' Boards of Governors should consider the action-plan outlined in Part 2 of this guidance. The guidance is arranged in the following manner:

PART 1: THE "DUTY TO VERIFY": BACKGROUND AND RATIONALE

- **Summary (Paragraphs 1-4);**
- **Implications of the recent Judicial Review (Paragraphs 5-6);**
- **When Boards of Governors' have a "duty to verify" (Paragraphs 7-10);**
- **What information should be verified (Paragraphs 11-12);**
- **How "qualifying information" should be verified (Paragraphs 13-16);**
- **The possible extent of a Board of Governors' "duty to verify" (Paragraphs 17-19);**
- **The implications of not fulfilling the "duty to verify" (Paragraphs 20-21);**
- **Complementary action from the Department of Education (Paragraph 22);**
- **Completion of Transfer Form by Primary School Principals (Paragraph 23);**
- **Conclusion (Paragraph 24).**

PART 2: A PLAN OF ACTION FOR ALL BOARDS OF GOVERNORS

PART 1: THE “DUTY TO VERIFY: BACKGROUND AND RATIONALE

Summary

- 1. This guidance explains that, as a result of a recent Judicial Review, many primary schools now have a “duty to verify” address-information within all of those applications qualifying for admission through this information.**
- 2. In respect of this, this guidance gives a general and practical recommendation for extending verification to all instances where address-information qualifies an applicant for admission to a primary school. This general, practical recommendation is that primary schools who may be oversubscribed with applications for their 2008/9 intake, request, through their entries in their Education and Library Board’s (ELB) admissions booklets, that all applicants submit specified verifying documents (in their original form) with their applications.**
3. All primary schools should note that this recommendation will mean that many of the applications they receive will have verifying documents enclosed with or attached to them. Even if primary schools themselves have not requested verifying documents of applicants, it will be vitally important that, when they return non-admitted applications to their ELB, they keep individual applications and their verifying documents together for the use of other primary schools. All primary schools may expect successful applicants to request the return of their verifying documents from them and, indeed, may wish to return these verifying documents unprompted in any pre-enrolment correspondence.
4. Whilst the primary focus of this guidance is on the role played within admissions by address-information its principles apply to the role played within admissions by all types of “qualifying information”. A major role in this respect is played by familial or relational information which often qualifies an applicant for admission by virtue of, for instance, a stated relationship (eg. sibling, son, daughter, *etc.*) or by a stated familial position – most commonly “Eldest child”.

Primary schools should and do have established procedures for verifying applications containing such qualifying information. Primary schools should ensure that these procedures are robust. If primary schools consider it difficult to establish robust procedures for certain types of qualifying information (for instance an applicant's assertion that their child is their "Eldest Child") then Boards of Governors should consider whether this information should continue to have a role in determining admissions.

Implications of the recent Judicial Review

5. This guidance follows a recent Judicial Review which has confirmed that Boards of Governors have a "duty to verify" information contained within admissions applications if they are to ensure the correct application of their admissions criteria. The relevant legal context for the ruling in this Judicial Review is that:
 - a. Boards of Governors are required by the 1997 Education (Northern Ireland) Order to select children for admission to the school by the application of their admissions criteria.
 - b. Appeal Tribunals are required by the 1997 Education (Northern Ireland) Order to direct a Board of Governors to admit an appellant if it appears to them that the Board of Governors' admissions criteria were not correctly applied (except where it appears that the appellant would still not have been admitted had the admissions criteria been correctly applied).
6. The judgment in the recent Judicial Review is available at http://www.deni.gov.uk/st_cecilia_s_college_-_judicial_review_judgment-3.pdf
The key principle it has established is that, in specific circumstances (and these are explained below), if Boards of Governors do not verify "qualifying information" contained within applications, then Boards of Governors cannot be considered to have correctly applied their admissions criteria. This presents substantial grounds for appeal for any applicant not admitted by a

school and, therefore, immediately requires the urgent adjustment in this year's applications and admissions processes recommended to you in this guidance.

When Boards of Governors have a “duty to verify”

7. As confirmed by the judgment in the recent Judicial Review, Boards of Governors have a duty to verify qualifying information contained within applications to their school if, at the point of applying their admissions criteria, they have “general knowledge or belief” of a problem with false information within applications. If at this point, and in possession of such knowledge or belief, Boards of Governors do not verify “qualifying” information then they present all rejected applicants with substantial grounds for appeal and face the effective negation of their ability to act as Admissions Authority for their school.
8. Clearly a Board of Governors' correct determination of whether or not they have “general knowledge or belief” of a problem with false information within applications is a very important decision. Given the recent Judicial Review and its accompanying media coverage, it may be difficult for a Board of Governors that makes admissions decisions using address-information to determine that it has no such knowledge or belief. This difficulty extends not only to primary schools that have set their own residency-based admissions criteria. It also extends to those primary schools for whom the current legal requirement to give priority to all applicants resident in Northern Ireland (Article 16 (4) of the 1997 Education Order) is an active concern. The Department is considering the future of this requirement but, currently, it remains law.
9. Whilst the judgment in the recent Judicial Review was clear that a “duty to verify” is established at the point where a school applies its admissions criteria, **Boards of Governors need to take action now to ensure that they can fulfil their “duty to verify” should it arise.** The “duty to verify” is likely to arise for schools who may be oversubscribed (it cannot arise for

undersubscribed schools as they do not apply admissions criteria) and who will have the “general knowledge or belief” of a problem with false information (most likely false addresses) within applications. Depending on the type of false information the primary school suspects, the “duty to verify” will require the primary school to verify that information (most likely addresses) in all the applications where it has proved decisive (only at this point will a primary school have completely fulfilled its “duty to verify” and no longer present rejected applicants with grounds for appeal). This is likely to require the verification of significant numbers of addresses for many primary schools. In order to undertake this, these primary schools will need to have determined their approach to their potential “duty to verify” and communicated it to applicants to the primary school within the ELB’s admission booklets. To allow for schools to consider and make this adjustment, the five ELBs have extended the deadline by which all schools should submit finalised entries to the 2008/09 admissions and transfer booklets. **The deadline for finalised entries is now 24 October 2007.**

10. **However, regardless of the specific point within admissions processes at which verifications take place, if a primary school becomes aware, at any stage prior to enrolment, that an applicant has gained a place by using false information within their application, then the primary school must take action to ensure it is fulfilling its legal obligation to apply its admissions criteria correctly. The action this obligation would require of the primary school is the withdrawal of the incorrectly offered place and its allocation to the applicant “next in line” according to the admissions criteria.**

What information should be verified

11. The “duty to verify” extends only to “qualifying information” contained within applications to a school, that is - information which, according to the pre-school’s published admissions criteria, may qualify the applicant for admission. The clearest examples of such “qualifying information” that are standard within applications are:

- a. **An applicant's address:** this can qualify an applicant for admission through criteria that give priority to those resident in a stated geographical area or through criteria that give priority to those whose residence is nearest to the school; **NB please note that following the outcome of the Judicial Review we strongly recommend that the applicant's address should be the child's normal place of residence and not that of a child-minder or a relative. Our 2007/13 Circular will be amended accordingly.**
 - b. **A child's age:** this can qualify an application for admission through criteria that prioritise applicants according to the age of the child (for instance "Chronological order or oldest-first" criteria);
 - c. **A child's relationship to a person specified within admissions criteria:** this can qualify an application for admission through criteria that prioritise applicants if they have or have had relatives attendant at, or associated with the primary school, as pupils, as members of staff or on the Board of Governors.
 - d. **Information demonstrating that the child has "special circumstances" or particular educational needs,** which can qualify an application for admission through criteria prioritising accordingly.
12. The crucial role often played within admissions decisions by an applicant's address was the focus of the recent Judicial Review. Boards of Governors are most likely to find that their "duty to verify" relates to information concerning an applicant's stated residential address. However, if a Board of Governors, at the point when it is applying its admissions criteria, has "general knowledge or belief" of a problem with false information within (b), (c) or (d) then they will also have a duty to verify that information in addition to any duty in respect of residential information.

How “qualifying information” should be verified

13. In Part 2, Step 3 you will find a list of the documents that can be used to verify an applicant’s residential address. For the convenience of all applicants we recommend that all primary schools request the number and type of documents in the manner within the suggested wording in Part 2, Step 3. In exceptional circumstances (i.e. traveller-families or those “between addresses”) an applicant may request that a primary school considers alternative means of verification to that stipulated by the primary school. In such circumstances, it will be for the primary school to consider such requests and agree a satisfactory and equivalent alternative with an applicant.
14. **Original documents:** whether primary schools decide to request originals or copies is a matter for them but our strong recommendation is that the provision of copies is open to abuse and that originals should be requested. Primary schools requesting originals should make available some facility whereby applicants not wishing to send originals in the post can provide them to the primary school in another way. Primary schools requesting originals or copies at the point of application will need to inform applicants how their verifying documents can be returned to them. Our recommendation is that primary schools inform applicants that their verifying documents will be available on request at the end of the admissions process from the primary school to which their application was successful. We do not advise that Boards of Governors request passports or driving licences.
15. Whilst the focus of this guidance is on the role played within admissions by address-information, its principles apply to the role played within admissions by all types of “qualifying information”. A major role in this respect is played by familial or relational information which often qualifies an applicant for admission by virtue of, for instance, a stated relationship (e.g. sibling, son, daughter, *etc.*) or by a stated familial position – most commonly “Eldest child”. Primary schools should and do have established procedures for verifying applications containing such qualifying information. Primary schools should ensure that these procedures are robust. If primary schools consider it difficult

to establish robust procedures for certain types of qualifying information (for instance an applicant's assertion that their child is their "Eldest Child") then Boards of Governors should consider whether this information should continue to have a role in determining admissions.

16. A child's age can also be a type of "qualifying information" and in the post-primary school equivalent to this guidance we provide practical recommendations for post-primary schools to request documents verifying a child's age. Such recommendations are not necessary in this guidance as all applicants to primary schools are required to submit a Birth Certificate for the child in question to demonstrate whether or not the child is of compulsory school age. All primary schools will, through established procedures, be in possession of verification of a child's age and will be able to use this should their admissions criteria require this of them.

The possible extent of a Board of Governors' "duty to verify"

17. **As a result of the recent Judicial Review, many primary schools now have a "duty to verify" address-information within all of those applications qualifying for admission through this information.** Only at this point will a primary school have completely fulfilled its "duty to verify" and no longer present rejected applicants with grounds for appeal.
18. Many primary schools will already verify (or will receive in an immediately verifiable form) the information that qualifies many of their applicants for admission (familial information). This guidance is particularly concerned with giving the clearest practical recommendation for extending verification to all instances where **address-information** qualify an applicant for admission. Our general recommendation:

that primary schools who may be oversubscribed with applications for their 2008/9 intake, request, through their entries in their ELB's admissions booklets, that all applicants submit specified verifying documents (in their original form) with their applications.

reflects the fact that in many primary schools, address-information plays a decisive role in determining the success or otherwise of significant numbers of applications: many primary schools have their own residential admissions criteria and all primary schools have the residential admissions criterion required of them by law: the requirement to give priority to all applicants resident in Northern Ireland (Article 16 (4) of the 1997 Education Order) before all applicants not so resident. For the large numbers of primary schools who may possibly receive applications from non-Northern Ireland residents, the “duty to verify” will require them to verify the address of every applicant (the Department is considering the future of this requirement but, currently, it remains law). Given the time pressures at the latter end of the admissions process, such comprehensive verification can only be incorporated if verifying documents are requested and provided at the point of application.

19. Primary schools who consider (according to the terms of this guidance) that they have a “duty to check” addresses, but that typically admit only very small numbers of applicants by reference to address may consider our general recommendation disproportionate. Such primary schools may consider that, in their case, it is practical for verifying documents to be requested and received at a later stage in the process. Primary schools determining such a course would still be advised to highlight the potential for documents to be requested within their entries in admissions booklets (and should consider using appropriate parts of wordings suggested in Part 2, at Steps 1-3). Above all such primary schools would need to be certain that they will be able to request, receive and verify all qualifying addresses in the time available at the latter end of the admissions process. The Department of Education is not likely to grant temporary variations for primary schools who face an exceeding of their admissions number either through choosing an approach to their “duty to verify” that places unmanageable burdens upon them or through ineffective management of those burdens. Indeed, primary schools who face an exceeding of their admissions number for either of these reasons will risk incurring the sanctions outlined at Paragraph 21.

The implications of not fulfilling the “duty to verify”

20. The broad implications of not fulfilling the new duty upon Boards of Governors are clear. Where a Board of Governors has, at the point of applying its admissions criteria, “general knowledge or belief” of a problem with false information, then a failure to verify information may present substantial grounds for appeal for any applicant rejected by a school.

21. If the Department of Education becomes aware that a primary school intends not to apply its admissions criteria correctly (i.e. that it intends to fail to fulfil its “duty to verify”) then it may use its power under Article 101 of the 1986 Education Order to direct the primary school to fulfil its “duty to verify”. Further, if a primary school has clearly failed to fulfil its “duty to verify” and is directed to admit successful appellants by an Appeals Tribunal, it should be noted that the Department will consider either or both of the following options:
 - a. Again using Article 101 of the 1986 Education Order to direct the primary school, even at this late stage, to discharge its duty to apply its admissions criteria correctly (i.e. by verifying information) and withdraw places allocated to those found to have submitted false information; or

 - b. Zero-rating for LMS purposes those children admitted to the primary school in excess of the primary school’s agreed admissions number. This zero-rating can be for all the years those children are attendant at the primary school.

Complementary action from the Department of Education

22. A prefatory note from the Department (see Annex 1) at the front of all of the ELB admission booklets will alert applicants that application to many primary schools will require the applicant to provide the verification materials specified by the primary school in their particular entry. It will also advise applicants that “that the provision of false or incorrect information or the failure to provide

information within the deadlines set by primary schools may result in either the withdrawal of a place or the inability of a primary school to offer a place”.

Completion of Transfer Form by Primary School Principals

23. It would also be extremely helpful if primary school Principals, when completing Transfer Forms with parents of Year 7 pupils in February each year, could ensure that applicants to post-primary schools understand fully the admissions criteria and possible verification requirements in respect of the post-primary schools to which they are applying. **The responsibility to ensure that all verifications documents are attached to the Transfer Form rests solely with the parents and they should ensure that all documents are attached before signing off the Transfer Form.**

Conclusion

24. Clearly, the recent Judicial Review’s confirmation that schools have a “duty to verify” places additional burdens on them. This guidance, through the recommended actions for all primary schools outlined in Part 2, attempts to minimise this burden and add verification to the admissions process with clarity and common sense. We hope that it is helpful and enables the admissions process for the 2008/9 year to operate smoothly. We thank you in advance for your co-operation.

OPEN ENROLMENT BRANCH

DEPARTMENT OF EDUCATION

PART 2: A PLAN OF ACTION FOR ALL BOARDS OF GOVERNORS

BEFORE 24 OCTOBER 2007	
Step 1	<p>Boards of Governors should determine <u>now</u> if they may be oversubscribed with applications for their 2008/09 intake.</p> <p>Primary schools firmly believing that they will be undersubscribed with applications for their 2008/09 intake should still amend their entry in ELB admission booklets to allow for the possibility that they may later need to request verifying documents from applicants. We suggest including the following statement either immediately before or after the primary school’s list of admissions criteria:</p> <p><i>“Applicants should note that they may be required to produce documents verifying their address.”</i></p> <p>Applicants should also be told the consequences of providing false information (see wording at Step 3). Primary schools firmly believing that they will be undersubscribed should also note their responsibilities at Steps 5 and 6.</p> <p><i>However, we strongly advise primary schools to err on the side of caution here: if primary schools, despite their expectations, turn out to be oversubscribed then they will have forgone the option of requesting verifying documents at the point of application and will have to manage the process at the latter and pressured end of the Admissions Process. Before making their determination about likely subscription levels primary schools that admit large numbers of applicants through address-information should consider Paragraphs 17-21 in Part 1 and observe the following guidelines: primary schools oversubscribed with applications in any recent years should assume that they will also be oversubscribed for their 2008/09 intake; primary schools uncertain whether they will be oversubscribed or not on the basis of past experience should assume oversubscription also.</i></p>
Step 2	<p>Boards of Governors who determine that they may be oversubscribed should then determine whether they have “general knowledge or belief” of a potential problem with false addresses within applications for their 2008/9 intake. Boards of Governors who determine that they do not have such “general knowledge or belief” should still amend their entry in ELB admission booklets to allow for the possibility that they may later need to request verifying documents from applicants. We suggest including the following statement either immediately before or after the primary school’s list of admissions criteria:</p> <p><i>“Applicants should note that they may be required to produce documents verifying their address.”</i></p>

	<p>Boards of Governors should also communicate their reasons for their determination (e.g. that they do not use residential criteria) to their ELB Transfer Officer. These Boards of Governors should note their responsibilities at Steps 5 and 6 and should also take note of the wider verifying duties they may have in line with Paragraphs 4, 12 and 15 in Part 1.</p> <p>Given the recent judicial review and its accompanying media coverage, It may be difficult for a Board of Governors whose admissions criteria use address information to conclude that it has no such knowledge or belief.</p>
<p>Step 3</p>	<p>Boards of Governors who (at Step 1) have determined that they may be oversubscribed and who (at Step 2) have determined that they have a “general knowledge or belief” of a potential problem with false address information have established that they have a “duty to verify” that information.</p> <p>We recommend that these Boards of Governors use the statement suggested below in their entry in their ELB’s admissions booklets.</p> <p><i>“Applicants should note that where an address contained within an application qualifies it for admission, then that address will be verified. To enable the Board of Governors to verify addresses, all applicants should provide any two of the following four documents with their application:</i></p> <ul style="list-style-type: none"> - a bank or building society statement which shows the address at which the child is resident; - a utility bill (for instance electricity, gas, Television Licence, telephone) which shows the address at which the child is resident; - a letter awarding Child Benefit to the child or another letter relating to this benefit; - the child’s Medical Card. <p><i>This is in addition to the standard requirement to provide a Birth Certificate in order to demonstrate whether or not a child is of compulsory school-age</i></p> <p><i>Original documents are required and not facsimiles or photocopies. Original documents can be returned on request at the end of the admissions process by the primary school to which the child has been admitted. Applicants preferring not to put verifying documents in the post or seeking alternative verifying arrangements should contact those primary schools listed on their application form that require verifying documents to agree alternative verification arrangements.</i></p> <p><i>The provision of false or incorrect information or the failure to provide verifying documents according to the required deadline may result in either the withdrawal of a place or the inability of a primary school to offer a place.”</i></p>

	<p>We recommend that this statement be located either immediately before or immediately after the primary school’s list of admissions criteria. If Boards of Governors wish to choose a different wording they should still attend to the features of the suggested wording – as these represent the territory that any such statement practically needs to cover. Primary schools should submit their completed entries for transfer and admissions booklets to their ELBs by 24 October 2007.</p>
AFTER APPLICATIONS ARE RECEIVED	
Step 4	<p>Primary schools that have requested address-verifying documents from applicants should ensure that these documents verify the address of the applicant.</p> <p>In cases where applications are not accompanied by verifying documents, it is for Boards of Governors to decide whether or not to contact the applicant to arrange for the provision of documents. Applicants will from now be asked to declare on their application form that they have submitted verifying documents, and the number of verifying documents submitted. This may help Boards of Governors make this decision.</p> <p>Applications ultimately not supported by the required verifying documents should, in line with a school’s obligation to apply its admissions criteria correctly, not be considered for admission before those that are so supported.</p> <p>Boards of Governors are also advised to establish a “reserve list” within their admissions processes, one that establishes the order in which initially non-admitted applicants should, in line with admissions criteria, be offered a place should one become available at a later stage.</p>
PROCESSING NON-ADMITTED APPLICATIONS	
Step 5	<p><u>All primary schools</u> should note that whether or not they themselves have requested verifying documents at the point of application, that many applications they receive will have verifying documents enclosed with or attached to them. It will be vitally important that, when they return non-admitted applications to the ELBs, they keep the applications and their verifying documents together for the use of other primary schools.</p>
RETURNING VERIFYING DOCUMENTS AFTER ADMISSION	
Step 6	<p><u>All primary schools</u> may expect their successful applicants to request the return of their verifying documents from them and, indeed, may wish to return these verifying documents unprompted in any pre-enrolment correspondence.</p>

Notwithstanding all of the above, if a primary school becomes aware, at any stage prior to enrolment, that an applicant has gained a place by using false information within their application, then the primary school has an obligation to withdraw the place and allocate it correctly in line with their admissions criteria.

Annex 1 [from Department to all prospective applicants – prefatory note inside front cover of all ELB admission booklets]

Dear Applicant

You may or may not be aware of the recent media coverage of the issue of “grannyng” – a practice in which those applying to schools enter false or incorrect addresses in the process of school admissions in order to advantage their application in the process. This issue has demonstrated the importance of ensuring that information at the heart of the school admissions process – not just residential but also concerning the age of children and their familial links to schools – is correct and accurate and that the process, above all, is fair.

The Department of Education has issued guidance to schools and pre-schools on their new “duty to verify” important information contained within applications for admission. For this reason, for admissions into the 2008/9 year many primary schools are requesting that all applicants provide, alongside their application forms, documents verifying particularly the residential information contained within their applications. The precise details of these requests will be contained in the individual entries of primary schools contained in this booklet. Please consider these requests carefully and ensure you comply with them in making your applications.

Please note:

- even if verifying documents are not required to be provided with applications they may be requested later;
- that schools have been advised that if at any point they discover the presence of false inaccurate or incorrect information within applications, they will be required under their obligations as statutory admissions authority to take action to ensure that their admissions criteria are correctly applied.
- For this reason the provision of false or incorrect information or the failure to provide verifying documents according to the required deadline may result in either the withdrawal of a place or the inability of a primary school to offer a place.

The admissions and transfer systems we have work because the vast majority of applicants operate in good faith and represent themselves fairly and accurately. We look forward to your co-operation in ensuring that this continues.

DEPARTMENT OF EDUCATION