

**Subject:**

**OPEN ENROLMENT IN NURSERY SCHOOLS:  
ARRANGEMENTS FOR SEPTEMBER 2009 ADMISSIONS**

**Circular Number:  
2008/14**

**Date of Issue:  
29 August 2008**

**Target Audience:**

- Principals and Boards of Governors of all Grant-Aided Nursery Schools; Grant-Aided Primary Schools with Nursery Provision;
- Education and Library Boards;
- The Council for Catholic Maintained Schools.

**Summary of Contents:**

**This Circular advises Principals and Boards of Governors of the arrangements for the application of open enrolment procedures to admissions to nursery schools and nursery classes in primary schools which will apply for the 2009/10 school year. You should continue to use the parental preference application form for all pre-school providers introduced last year. This circular will be supplemented by the issue in September of revised guidance for schools and pre schools on their 'duty to verify' information contained within application forms.**

**Please note paragraphs 10, 11 and 35 which set out new procedures affecting the admission to nursery provision of children in their penultimate pre-school year.**

**A revised timetable for the 2009/10 arrangements is set out in the Annex.**

**Please note:** The text below contains references to the Education and Library Boards (ELBs) and the Council for Catholic Maintained Schools (CCMS). During the course of this coming academic year it is planned that the ELBs and CCMS will be dissolved and their functions transfer to the new Education and Skills Authority (ESA). Therefore all references in this circular to the ELBs and CCMS should be interpreted as applying to ESA when it comes into operation.

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**Governor Awareness:**  
Essential

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Advice for Principals and  
Boards of Governors

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None

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Not Applicable

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## OPEN ENROLMENT IN NURSERY SCHOOLS

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The possibility has been raised of a conflict between Article 16(4) of the 1997 Education Order (for primary and post-primary schools) and Article 32(4) of the 1998 Education Order (for pre-schools) and EU law. Articles 16(4) 1997 and Article 32(4) 1998 provide for children resident in the North of Ireland to be given priority in schools' admissions criteria. Such a priority may be in breach of EU law.

Article 16(4) was raised as an issue in the 2007 Judicial Review involving St Cecilia's College, Derry. In that case I noted the Judge's careful scrutiny of a very complex collection of issues.

The case highlighted that schools in the North are currently required by primary legislation to give priority to children resident in the North. As stated above, such legislation may be in breach of EU law. In any event, I am currently in the process of reviewing the current legislation, with a view to changing it. In doing so, I intend to work in close co-operation with my counterpart in the South and have written to Minister O'Keeffe on this matter.

It is the Department's policy to maximise the extent to which parents are enabled to send their children to their first school of choice. That principle is at the heart of our enrolment and admissions policies and there is no logical reason as to why families living along the border corridor should be unfairly affected. I shall be talking to all interested parties on this issue.

In light of the circumstances set out above this circular is issued as an interim guide for schools and it will be reviewed on an ongoing basis taking into account a number of relevant issues not least the outcome of my discussions with all interested parties.

**CAITRÍONA RUANE MLA**

Ardaíodh an féidearthacht faoi choimhlint idir Alt 16(4) an Ordaithe Oideachais 1997 (do bhunscoileanna agus d'iarbhunscoileanna) agus Alt 32(4) an Ordaithe Oideachais 1998 (do réamhscoileanna) agus reachtaíocht an AE. Déanann Alt 16(4) 1997 agus Alt 32(4) 1998 foráil do leanaí atá ina gcónaí i dTuaisceart Éireann ó thaobh tosaíochta a thabhairt dóibh sna critéir iontrála scoileanna. D'fhéadfadh tosaíocht mar seo a bheith mar shárú ar reachtaíocht an AE.

Ardaíodh Alt 16(4) mar cheist in Athbhreithniú Breithiúnach na bliana 2007 a bhain le St Cecilia's College, Doire. Sa chás sin rinne mé suntas de scrúdú cúramach an Bhreithimh ar bhailiúchán ceisteanna atá fíor-chasta.

Léirigh an cás go bhfuil dualgas ar scoileanna sa Tuaisceart i láthair na huaire, trí reachtaíocht phríomhúil, tosaíocht a thabhairt do leanaí atá cónaitheach sa Tuaisceart. Mar atá luaite thuas, d'fhéadfadh reachtaíocht mar seo a bheith mar shárú ar reachtaíocht an AE. Ar chaoi ar bith, tá athbhreithniú á dhéanamh agam faoi láthair ar an reachtaíocht reatha, agus é ar intinn agam í a athrú. Le linn na hoibre seo, tá sé ar intinn agam oibriú go dlúth leis an Aire Oideachais sa Deisceart agus tá scríofa agam chuig an Aire O'Keeffe ar an ábhar seo.

Is é beartas na Roinne ná uasmhéadú a dhéanamh ar ábaltacht na dtuismitheoirí a gcuid leanaí a chur chuig scoileanna atá mar chéad rogha acu féin. Tá an prionsabal seo mar chroílár dár mbeartais rollaithe agus iontrála agus níl aon chúis loighciúil ann go gcaithfí go míchothrom le teaghlaigh atá ina gcónaí ar chonair na teorann. Beidh mé ag dul i gcomhairle leis na páirtithe ar fad ar spéis leo an cheist seo.

I bhfianaise na gcúinsí atá leagtha amach thuas, eisítear an imlitir seo mar threoir eatramhach do scoileanna agus déanfar athbhreithniú uirthi ar bhonn leanúnach, le líon ceisteanna ábhartha á dtógáil san áireamh, agus torthaí na gcainteanna agam féin leis na páirtithe ar spéis leo an cheist seo go lárnach sna cúrsaí seo.

**CAITRÍONA RUANE MLA**

## **INTRODUCTION**

1. Part V Chapter II of The Education (Northern Ireland) Order 1998 sets out the statutory requirements for the admission of children to pre-school education at grant-aided schools. Article 21 of the Education and Libraries (Northern Ireland) Order 2003 amends Article 23 of the 1998 Order. Parents are required to express in order of preference the nursery school/class in which they wish pre-school education to be provided for their child.
2. This Circular sets out for Principals and Boards of Governors the arrangements for the application of open enrolment procedures to admissions to nursery schools and nursery classes in primary schools (in some cases referred to as a nursery unit). Education and Library Boards (hereinafter referred to as boards or board), however, have a key role as they are required to make the arrangements to enable parents of a child resident in the board area to express their preferences as to nursery school/class they wish their child to attend and also give publicity to the arrangements which will apply.
3. The guidance offered does not constitute an authoritative legal interpretation of the Education (Northern Ireland) Order 1998 or the Education and Libraries (Northern Ireland) Order 2003 or regulations.

## **SUMMARY**

4. The main features of open enrolment in nursery schools and classes are:-
  - i. the Department determines the full-time and/or part-time enrolment number for each school;
  - ii. Education and Library Boards make arrangements to enable parents to express their preference as to the nursery school/class they wish their child to attend. They are also required to publish the criteria (called 'admissions criteria') which schools will use to select children in the event of their being oversubscribed with applications: these criteria must be capable of selecting children down to the last available place;
  - iii. parents have the right to express their preference as to the nursery school/class they wish their child to attend. Schools must also comply with a preference expressed by a parent, for admission of a child up to their full-time and/or part-time enrolment number;
  - iv. they also have the right to appeal to an independent appeal tribunal only if they consider that the school/class has not applied its admissions criteria or has not applied them correctly; and
  - v. priority must be given to children resident in Northern Ireland at the time of proposed admission.

## **APPLICATION OF CIRCULAR**

5. The arrangements set out in this Circular will apply to admissions to nursery schools and nursery classes in primary schools for the 2009/10 school year. They will apply to the admission of children who have not attained the lower limit of compulsory school age.

## **BOARDS' ARRANGEMENTS FOR ADMISSION TO PRE-SCHOOL EDUCATION AT GRANT-AIDED SCHOOLS**

6. **Article 21 of the Education (Northern Ireland) Order 2003** requires each board to make arrangements for the parent of a child resident in the area of the board to express (in order) preferences as to the school at which he wishes pre-school education to be provided for his child and where any of those schools/classes provide both full-time and part-time pre-school education to express his preference as to which kind of pre-school education he wishes to be provided for his child and to give reasons for his preferences.
7. **The details of the arrangements to apply in each board area including the timetable for the admissions procedure, are for the boards to determine. However paragraphs 8 to 11 and the suggested timetable in the Annex offer guidance to boards on the form of the arrangements and to schools in considering applications for admission.**

### **APPLICATION FORMS**

8. It is recommended that parents seeking a place for their child at a nursery school or a nursery class in a primary school be required to provide to schools all relevant information such as name (**as given on the child's birth certificate**), date of birth and address, brother/sister already attending together with **the child's birth certificate** and other supporting documentation as appropriate (see NOTES in paragraph 20). This will ensure that the Board of Governors will be able to consider the application against the school's admissions criteria without the need to seek further information from the parents. Boards will provide standard application forms which will be available in each school. A copy will be published with the information provided to parents about admission arrangements. (See also paragraphs 12 to 16). **Parents should be asked to nominate at least three preferences**, the importance of this should be particularly emphasized in areas where known pressures exist.

### **CONSIDERATION OF APPLICATIONS BY SCHOOLS**

9. Schools should consider all applications for admissions and admit pupils up to their approved enrolment number. In schools/classes which are oversubscribed, application forms for pupils who have not been accepted for admission at their first preference should be made available **promptly** to the parents' second preference school via the Education and Library Board. This process should be repeated for third preference schools etc. until all pupils are placed. **Schools/classes must adhere rigidly to the dates for the return of application forms at each preference stage. If it is not possible to convene meetings of the Board of Governors within the timescale they should make arrangements to delegate their responsibilities in this area to a sub-committee or the Principal to ensure the deadline is met.**
10. **As the expansion of pre-school education is intended to provide a free place for all children in their final pre-school year seeking a place, it is important that preference should be given by schools to such children.**

**A suggested timetable for the 2009/10 arrangements is set out in the Annex. In considering applications, it is recommended that Boards of Governors give priority consideration to all children in their final pre-school year including, where appropriate, late applications in preference to applications from children who will be in their penultimate pre-school year.**

11. Further advice on the admissions procedure, particularly the admissions of children in their penultimate pre-school year, is available from your local Board Transfer Officer.

## **PUBLICATION OF INFORMATION BY BOARDS**

12. **Article 33 of the Education (Northern Ireland) Order 1998** requires each board to publish details of the arrangements for the admission of children to pre-school education at each school in each school year, and of appeal mechanisms at such time and in such manner as the Department may direct.

In addition, the Education (School Information and Prospectus) Regulations (Northern Ireland) 1993 No 370 as amended, require each board to publish, in relation to each nursery school in its area particulars of:

- the expected number of pupils at the school and their age range; and
- the criteria for admission to the school.

13. The general information about the open enrolment arrangements and the information about individual schools for the 2009/10 school year must be published in advance of that year. The published information should set out the timetable for consideration of applications, explain to parents that they should send their application direct to their first preference school and emphasise the importance of submitting their application on time.

14. Parents should be able to obtain copies of the published information on request under the boards' general arrangements for parents to obtain information on schools. Reference copies should be kept at board offices and at each school and public library in the board area.

15. The board should also publish, in local newspapers, information that the booklets are available and the date by which application for admission to a nursery school or class should be made. Boards should also consider providing, on a joint basis, publicity of a general nature in regional media eg television, radio, newspapers etc at an appropriate time, to alert parents of children in their final pre-school year of the opportunity to make applications for pre-school education.

16. Schools' Boards of Governors should ensure that their admissions criteria are available in sufficient time for boards to include them in the information required under paragraph 13 above. See also paragraphs 18 to 26 for guidance about admissions criteria.

## **ROLE OF THE DEPARTMENT**

17. The Department determines the full-time and/or part-time enrolment numbers for nursery schools and nursery classes in primary schools. Unless otherwise determined existing full-time and/or part-time enrolment numbers will continue to apply. Requests for changes in the pattern of attendance should be addressed to the Early Years Team in the Department. The Department will notify Boards of Governors of new provision about the full-time and/or part-time enrolment numbers for the 2009/10 school year. This information will be made available to boards and the Council for Catholic Maintained Schools (CCMS).

## **ADMISSIONS CRITERIA**

18. Regulations made under **Article 32 of the Education (Northern Ireland) Order 1998** require nursery schools and nursery classes in primary schools, when oversubscribed with applications to apply admissions criteria which ensure that available places are targeted at children in their final pre-school year who are from socially disadvantaged circumstances, ie children with a parent who is in receipt of Income Support or Income-based Jobseeker's Allowance and those with July/August birthdays. Some

priority can also be given to the admission of children with special educational needs where Boards of Governors so wish (see paragraphs 21-24).

19. Responsibility for drawing up additional criteria to be applied when oversubscribed with applications rests with the Board of Governors, who must consider:

- in controlled schools, any representations made to it by the board; and
- in the case of a Catholic maintained school, any representations made to it by the CCMS.

20. **The Pre-School Education in Schools (Admissions Criteria) Regulations (Northern Ireland) 1999** apply to the admissions criteria used by nursery schools and nursery classes in primary schools. These Regulations REQUIRE the following matters to be included in criteria:

- a. the order of priority in which children shall be admitted to full-time pre-school education at the beginning of the school year where the number of applications for such admission exceeds the full-time enrolment number determined by the Department under Article 25 of the 1998 Order for the school for that school year;
- b. the order of priority in which children shall be admitted to part-time pre-school education at the beginning of the school year where the number of applications for such admission exceeds the part-time enrolment number determined by the Department under Article 29 of the 1998 Order for the school for that school year;
- c. the order of priority in which children shall be admitted to full-time pre-school education at any time after the beginning of the school year where the number of applications for such admission exceeds the number of vacant full-time places for pre-school education for that school year;
- d. the order of priority in which children shall be admitted to part-time pre-school education at any time after the beginning of the school year where the number of applications for such admission exceeds the number of vacant part-time places for pre-school education for that school year;
- e. provision to give priority, in the following order of priority, to:-
  - i. children from socially disadvantaged circumstances who will be aged 4 before 1 September in their final pre-school year (see NOTE 1 on page 5);
  - ii. children from socially disadvantaged circumstances who will be aged 3 before 1 September in their final pre-school year (see NOTE 1 on page 5);
  - iii. children not falling within sub-paragraph i. or ii. who will be aged 4 before 1 September in their final pre-school year;
  - iv. children not falling within sub-paragraph i. or ii. who will be aged 3 before 1 September in their final pre-school year;

and who at the time of their proposed admission will not have a pre-school education place, whether full-time or part-time, at another school or any other premises.

**NOTE 1:** “Children from socially disadvantaged circumstances” means a child whose parent is in receipt of Income Support or Income-based Jobseeker’s Allowance. When parents apply for places for their child on this basis they should have their application forms stamped by the Social Security Agency to confirm that they are in receipt of Income Support or Income-based Jobseeker’s Allowance.

**NOTE 2:** “Children with special educational needs”, means, for these purposes, a child in their final pre-school year who should be treated as having special educational needs if, in the opinion of a board, they have significantly greater difficulty in learning than the majority of children of their age.

## **CHILDREN WITH SPECIAL EDUCATIONAL NEEDS**

21. Boards of Governors are strongly urged to continue the traditional practice of giving some priority in the allocation of places to children with special educational needs within the arrangements. The admissions criteria regulations enable Boards of Governors, should they so wish, to give some priority to such children in their final pre-school year by making reference to this within admissions criteria. This must however be after the required priority of allocating places to socially disadvantaged children and those with July/August birthdays but may be before allocation of places to other children in their final pre-school year.

22. To assist Boards of Governors, boards, in accordance with the regulations, will decide if a child should be treated as having special educational needs on the basis of consideration by the board of the evidence available from assessments by educational psychologists, designated medical officers and other such assessment as is deemed appropriate within the timescale available. The opinion of the board will be conveyed to the Board of Governors by the special education section of the board.

23. In a situation where a Board of Governors has more applications whom the board consider should be treated as having special educational needs than there are places available, then the Board of Governors should apply their other criteria, eg sibling relationships, geographical area etc to decide which such children are to be admitted.

24. It is not possible to “reserve” places for such children. All places must be allocated within the timetable in the Annex and in accordance with the arrangements in this Circular.

## **OTHER CRITERIA**

25. Within the framework set out in paragraphs 18 to 20 above, the Department would expect that the criteria drawn up by Boards of Governors to enable them to select children for admission when oversubscribed with applications would take into account a range of factors. These could include the geographical location of the child’s home relative to the school; whether the child has a family connection with the school or has a parent/guardian employed by the school; special factors (eg medical or social for which supporting evidence should be provided by the parents); and in the case of nursery classes in primary schools whether brother/sister (half brother/sister) is attending the primary school. **Where the geographical location of the child’s home relative to the school is to be included as a criterion it should be made clear whether home refers to parents’ home only or can include the home of a childminder.**

26. Admissions criteria are intended to enable the Board of Governors to make objective decisions about which children to admit to the school. Since the application of a school's admissions criteria is the key factor in an Appeal Tribunal's consideration of a parent's appeal against an admissions decision (paragraphs 27 and 28 refer), it is essential that the admissions criteria should:

- be objective;
- be capable of verification; and
- be capable of distinguishing between children down to the last available place.

Boards of Governors should ensure that their criteria for admission in 2009/10 and beyond take this into account.

## **APPEALS**

27. **Articles 27 and 31 of the Education (Northern Ireland) Order 1998** require boards to make arrangements enabling parents to appeal if they are dissatisfied with an admissions decision. The appeal will be to an Appeal Tribunal constituted by the relevant board in accordance with the **School Admissions (Appeal Tribunals) Regulations (Northern Ireland) 1998**. Boards should publish details of the arrangements for appeals against admissions decisions made by schools situated in their respective board areas.

28. Parents may appeal to a tribunal a decision refusing their child admission to a school only on the grounds that the Board of Governors, by or on whose behalf the decision was made, did not apply, or did not correctly apply, its admissions criteria. Decisions of Appeal Tribunals are binding on all schools and, consequently, children may be admitted to a school in compliance with a direction given by an Appeal Tribunal, even though the school would thereby be exceeding its approved full-time and/or part-time enrolment numbers.

## **DETERMINATION OF FULL-TIME AND PART-TIME ENROLMENT NUMBERS**

29. Many nursery schools and classes offer both full-time and part-time places; some offer part-time only. Full-time provision only can mean that in some areas optimum use is not made of available places. Full-time provision is of particular benefit to children with special needs and those from socially disadvantaged circumstances; where it is provided for these reasons, it should continue to be made available but should be kept under review.

30. Schools may not exceed their full-time and/or part-time enrolment numbers unless it is to admit a child in compliance with the findings of an Appeal Tribunal, or where a direction under Article 42 of The Education (Northern Ireland) Order 1996 to admit a child to a specified school has been made.

### **Consultation on Enrolment Numbers**

31. **Articles 24, 25, 28 and 29 of the Education (Northern Ireland) Order 1998** require the Department to determine a full-time and/or part-time enrolment number for each nursery school and for nursery classes in primary schools in consultation with Boards of Governors and having also considered any representations made by the CCMS (Council for Catholic maintained schools) and the boards in relation **to all schools in their area.**

32. In determining the enrolment number for a school the Department is required to have regard, in particular, to:

- the requirements as to school premises under Article 18 of The Education and Libraries (Northern Ireland) Order 1986 as amended;
- the accommodation available for use by pre-school children; and
- the extent to which full-time and/or part-time pre-school places are to be provided in the school.

### **FULL-TIME ENROLMENT NUMBER**

33. A school's full-time enrolment number is the maximum number of children which may be enrolled in a nursery school or nursery classes in a primary school in any school year.

The Department considers that the full-time enrolment number of a one unit nursery school or a nursery class in a primary school offering full-time provision will be 26.

### **PART-TIME ENROLMENT NUMBER**

**34. All additional places secured under the pre-school expansion programme will be part time (normally 5 sessions per week, each lasting two and half hours) and provided on a full year basis (normally secured for 38 weeks over the school year, from September to June).**

A school's part-time enrolment number is the maximum number of children which may be enrolled in a nursery school or nursery classes in a primary school in any one year.

### **PROCEDURES IN RESPECT OF CHILDREN ADMITTED IN THEIR PENULTIMATE PRE-SCHOOL YEAR**

**35. Where a child in their penultimate pre-school year is admitted to a school, there is no automatic entitlement to a second year's pre-school education. Parents will be required to make a new application for a further year's pre-school education which will be considered along with all other applications.**

### **TIMETABLE**

36. A timetable for the operation of these arrangements in relation to admissions in the 2009/10 school year is attached as an Annex.

### **CANCELLED CIRCULARS**

37. Circular 2007/12 is hereby cancelled.

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**PAUL PRICE**  
**Head of Open Enrolment and**  
**Transfer Procedure Branch**

**SUGGESTED TIMETABLE – SEPTEMBER 2009 ADMISSIONS**

September 2008	Providers to review admissions policies.
Friday 19 September 2008	Boards to obtain descriptions and admissions criteria from providers for publication.
Not later than Friday 5 December 2008	Boards publish information on behalf of providers.
Second week in January 2009	Advertisements in papers/on television.
Wednesday 21 January 2009 (not later than 12 noon)	Closing date for receipt of <b>all</b> parents' applications to first preference providers.
Friday 30 January 2009	Date by which providers select pre-school children at first preference stage and for application forms of children not selected to be received by Boards for transmission to second preference providers.
Tuesday 17 February 2009	Date by which providers select pre-school children at second preference stage and for application forms of pre-school children not selected to be received by Boards for transmission to third preference providers.
Friday 27 February 2009	Date by which providers select children at third preference stage and for application forms of pre-school children not selected to be received by the Boards.
Friday 17 April 2009	Final date by which change of preferences in exceptional circumstances or new applications will be accepted.
Friday 1 May 2009	Issue of letters by providers advising parents of the setting for which their pre-school child has been accepted.  Issue of letters by Boards advising parents of unplaced pre-school aged children where alternative provision is still available.
Wednesday 13 May 2009 (not later than 4 pm)	Final date for notice of intention to appeal against the admissions decisions of Boards of Governors of schools to be received by Boards.