

**DEPARTMENT OF EDUCATION  
POST-PRIMARY TRANSFER POLICY**

**GUIDANCE TO PRIMARY SCHOOL PRINCIPALS,  
POST-PRIMARY SCHOOLS' BOARDS OF  
GOVERNORS AND PRINCIPALS,  
AND EDUCATION AND LIBRARY BOARDS<sup>1</sup>  
ON THE PROCESS OF TRANSFER FROM  
PRIMARY TO POST-PRIMARY SCHOOL  
FROM SEPTEMBER 2010**

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<sup>1</sup> References throughout this document to Education and Library Boards will apply equally to the Education and Skills Authority once it is established.

## **SUMMARY**

### **AIMS AND OBJECTIVES OF THE DEPARTMENT OF EDUCATION'S GUIDANCE**

This Guidance sets out a framework for the procedure for the transfer of children from primary to post-primary school from September 2010. The aims and objectives of the arrangements for the admission of these pupils to post-primary schools, as set out in this guidance, will be:

- that admissions decisions are fair and give each child the opportunity to reach his/her full potential;
- that the overall arrangements for admissions, and within that the respective roles of the Department, the Education and Library Boards, and primary and post-primary schools' Boards of Governors are clear and understood; and
- that post-primary schools' Boards of Governors achieve robust and accurate admissions decisions.

## **ADMISSIONS CRITERIA**

With regard to these three objectives, the guidance recommends a menu of admissions criteria from which post-primary schools' Boards of Governors should draw up their admissions criteria. 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:**

- Applicants who have a sibling currently attending the school;
- Applicants who are the Eldest Child;
- Applicants from a Feeder/named primary school;
- Applicants residing in a named Parish (with nearest suitable school);
- Applicants residing in a named Catchment Area (with nearest suitable school);
- Applicants for whom the school is the Nearest Suitable School;
- Tie-breaker criteria.

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## THE LEGAL STATUS OF THIS GUIDANCE

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) will, therefore, be required to have regard to this guidance. Boards of Governors and others addressed by this Guidance should understand that the duty to have regard to this Guidance is a legal one. In practical

terms this duty, for a post-primary school's Board of Governors, means that in drawing up admissions criteria they should give active and receptive consideration to the Guidance's recommendations on admissions criteria and record this consideration.

3. 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 that have a legislative basis in their own right. Also excepted from this guidance is the transfer of children in possession of a statement of special educational needs. The transfer of such children is provided for in legislation and lies outside of Open Enrolment procedures in order to ensure that such children are provided with the most appropriate school placement and that their needs are met.

## THE TRANSFER PROCESS

4. The roles and responsibilities of the Department, Education and Library Boards, primary schools and post-primary schools and their Boards of Governors will be broadly similar to Transfer 2010, and will be detailed in the operational circular that the Department will publish to coincide with the start of the new school year. The same applies to transport policy in support of post-primary transfer. **Schools should be aware that any changes to their roles and responsibilities that DE considers necessary to improve the operation of the transfer process, drawing on lessons from the implementation of Transfer 2010, will be detailed in the operational circular.**
5. This Guidance applies equally to all schools that operate transfer processes within the Dickson Plan system – at both age 11 and age 14. As this Guidance document is written largely in the context of transfer at the age of 11, the following points clarify how the Guidance should be interpreted by those operating transfer at age 14 in line with its application at age 11. For transfer at age 14, the Department strongly recommends that:

- senior high schools end the use of academic admissions criteria and all arrangements associated with the application of such criteria;
- where senior high schools persist with the use of academic admissions criteria they should not put in place any arrangements, including Special Circumstances procedures, that ascribe any role to a junior high school or any information held by a junior high school;
- the vital educational role of junior high schools should not be reduced and distorted into a role where junior high schools see themselves as serving the academic admissions processes of senior high schools; and
- junior high schools should not facilitate a senior high school's application of academic admissions criteria.

#### **CONTINUING LEGAL CONSIDERATIONS IN SETTING ADMISSIONS CRITERIA**

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

the admissions criteria they should and should not use. All schools are obliged to have regard to these recommendations.

## **RECOMMENDED ADMISSIONS CRITERIA**

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

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:

- Applicants who have a sibling currently attending the school;
- Applicants who are the Eldest Child;
- Applicants from a Feeder/named primary school;
- Applicants residing in a named Parish (with nearest suitable school);
- Applicants residing in a named Catchment Area (with nearest suitable school);
- Applicants for whom the school is the Nearest Suitable School;
- Tie-breaker criteria.

10. Further detailed information in relation to each of the recommended criteria will appear in the operational circular that the Department will publish to coincide with the start of the new school year.

### **ADMISSIONS CRITERIA THAT ARE NOT RECOMMENDED**

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

- Unregulated Academic Selection: the Department considers that decisions based on the outcome of unregulated academic testing maintain and support inequality, and are not consistent with the objective of treating children fairly and giving each child the opportunity to reach his/her full potential. This is consistent with views expressed by the Human Rights Commission. On equality grounds, the Department strongly recommends that schools end the use of academic admissions criteria and the use of unregulated tests that facilitate the application of these criteria.
- Familial criteria beyond current sibling: the reason why only current sibling and not other family connections are recommended is because of the need to serve the interests of parents, children and families without disadvantaging other applicants. It is clearly, in transport terms alone, convenient and supportive for a child to gain admission to the same school as that currently attended by their sibling.
- Distance tie-breakers: distance tie-breakers are not recommended because they will disadvantage rural/outlying applicants and will undermine those aspects of the recommended menu of criteria designed to ensure that these applicants are treated fairly.
- Children of employees/governors or a school: notwithstanding the ability of this criterion to provide convenience for a small number of

families, it makes admissions priority a benefit of service or employment. Employment or service either have their own benefit or are disinterested in one. Furthermore, employment or service can only be accessed by specific groups from, and a very small number of, the potential community to be served by a school.

- Preference Criteria: DE strongly recommends to all Boards of Governors that, whilst, preference criteria (i.e. the prioritising of applicants according to the level of preference of their application – 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> etc) may no longer be explicitly prohibited, they should not in the interests of open enrolment policy be used by any school at any stage. The principle of open enrolment and of parental choice is that parents should be able to express their preferences of school for their child in an unfettered manner. The use of preference criteria will mean that the manner in which parents and children express these preferences will affect their prospects of admission. This will inevitably compel parents and children to express their preferences tactically. It will restrict parental choice.

## **ISSUES RELATING TO THE USE OF UNREGULATED TESTS**

### ***Risk of Challenge – advice to post-primary schools***

12. This guidance recommends that schools should end the use of academic selection through unregulated tests for the purposes of selecting children for admission. Schools failing to follow this recommendation need to be aware of the range of issues associated with unregulated tests that may expose them to the risk of challenge. These are listed below and are discussed in more detail in Annex 1:

- **A robust assessment mechanism** – i.e. one that is capable of providing for sound ability-based admissions decisions;

- **An Irish-language equivalent to the test.**
- **Consideration of FSME applicants.**
- **Communication of independent assessment arrangements or unregulated tests.**
- **Special Circumstances Procedure for the application of academic criteria:** post-primary schools should not put in place arrangements for Special Circumstances that ascribe any role to a primary school or any information held by a primary school.
- **Special Provision and supernumerary admissions.**

### ***Role of primary schools***

13. Primary schools should understand that they play a distinct and crucial role in the educational development of all children. This role is to ensure that the primary stage of every child's educational development (fundamental to all subsequent stages of educational development) is completed.
14. The vital educational role of primary schools should not be reduced and distorted into a role where primary schools see themselves as serving the academic admissions processes of post-primary schools. All primary schools have statutory obligations to deliver the primary curriculum as defined in Articles 4-9 of the Education Order 2006 – and must not depart from these obligations. The Department strongly recommends that primary schools do not prepare their children for unregulated entrance tests. The school should not facilitate unregulated entrance test arrangements in any way by supplying support materials, offer afternoon school coaching in exam technique or familiarisation with a testing environment. The Education and Training Inspectorate will continue to monitor the quality of teaching and learning, in the context of the revised curriculum, in primary schools.

15. Primary schools will be aware that any failure to deliver the revised curriculum can be formally reported as a complaint to a Curriculum Complaints Tribunal. ELBs will continue to make arrangements that enable parents and others to bring complaints about a school's delivery of the curriculum to these Tribunals.

16. Primary schools should be aware that where a parent or other interested party approaches the Department with a concern that the revised curriculum is not being delivered properly they will be advised to lodge a complaint with the school principal in the first instance, and if there is no satisfactory outcome to escalate the complaint to the Board of Governors. If the Board of Governors fails to respond appropriately the parent can make a formal complaint to a Curriculum Complaints tribunal.

17. Primary schools should not facilitate a post-primary school's application of unregulated academic admissions criteria. If some post-primary schools do not follow the recommendation that they should not, in special circumstances arrangements, ascribe a role to a primary school, then some primary schools may, unfairly, feel pressured into involvement. In relation to **Special Circumstances**, primary schools should be clear that:

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

## **APPEALS**

### ***Admissions Appeal Tribunals***

18. ELBs will continue to administer independent Admissions Appeal Tribunals. Parents will continue to be advised on how to apply to an admissions appeal tribunal in the placement letter they receive at the end of the admissions process.

### ***Exceptional Circumstances Process***

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

## **MOVING FORWARD – THE TRANSITION TO AN EQUALITY BASED TRANSFER PROCESS**

20. The Department wants to ensure that schools are able to implement this guidance as quickly as possible. We are aware that there are

concerns around whether or not changes to admissions policies, particularly a move away from the use of academic admissions criteria, would be considered a significant change to the character of the school requiring, by law, the publication of a development proposal.

21. Article 14 of the Education and Libraries (NI) Order 1986 makes it clear that a development proposal is required where there is a proposal “to make a significant change in the character or size” of a school, or to make any other change in a school “which would have a significant effect on another grant-aided school”. Since 2003, Departmental guidance issued to all schools has stated that one change in a school’s character that would be significant enough to qualify for these legal provisions would be an academically selective school changing to become non-selective.

22. This particular aspect of the Department’s guidance on development proposals is currently being reviewed and new guidance specific to this issue will issue in the near future. What is clear now, however, is that for each and every selective school the ending of academic selection may introduce other changes in the character of the school or have an impact on other schools in the local area. These will vary according to each school’s circumstances and their plans for their future: the non-academic admissions criteria a school will use instead of its academic criteria; the academic profile of its current intake; its plans for its curriculum. If plans involving the ending of academic selection do involve changes that are significant for the school concerned and/or any other school, then these changes should, by law, be the subject of a development proposal. The judgement will initially be for the schools concerned in relation to the details of their particular plans. The new development proposal guidance specifically relating to this issue will help schools make this initial judgement and proceed upon it. DE will also offer schools individual advice in response to their specific plans for change. All development proposals received from schools planning

to implement this guidance and end the use of academic criteria will be processed as quickly as possible by the Department.

23. It is important to note that the purpose of a development proposal is to ensure that appropriate consultation with the key stakeholders and wider community is conducted when a significant change to the size or character of a school is proposed or if such a change will have a significant impact on another grant-aided school.

24. Schools will also wish to be aware that the Department is reviewing its policy for considering requests for a temporary variation to approved numbers. This review is prompted by the impact of demographic decline on the education system and the need for sustainable schools, but must also take account of wider policy issues including post-primary transfer. Following the completion of this review a revised policy on temporary variations reflecting the outcome of the review will come into operation for admissions into the 2011/12 school year.

## **CONCLUSION**

25. 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 admissions from September 2010. 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.

**DEPARTMENT OF EDUCATION**

## **Annex 1: Advice on issues related to unregulated tests**

It is recommended that post-primary schools end the use of academic admissions criteria 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 following are issues which the Department has identified as giving cause for concern if schools opt to use unregulated tests ("Entrance Tests") in support of academic admissions criteria. This series of issues should not be considered to be exhaustive. It will be a matter for any grammar school using an unregulated test to ensure that it addresses such concerns.

**A Robust Test:** the CCEA test was one where, for each question, facility values and discrimination values were calculated. This enabled CCEA to know the difficulty and reliability of the questions and so order them appropriately in the Transfer Tests. Using the facility values, the mean was set for each subject in each paper as in previous years to ensure comparability of standards year-on-year and across tests in any one year.

In the development stages, the trialing of the test items established their effectiveness, and similarly appropriate measures were taken to ensure the effectiveness of the structure of the test, the layout, style and printing of the Test and appropriate security arrangements for the test material.

A reliability coefficient was also used as an effective measure of the internal consistency of the items in the test

The Department also advises all Boards of Governors that they are the statutory admissions authority for their school. In particular, the Department advises Boards of Governors of their particular obligation under the 1997 Education Order (Article 16, 5). This provides that the criteria drawn up by the post-primary schools' Board of Governors must be capable of enabling them to admit the number of applicants exactly equivalent to their admissions and enrolment numbers as set by the Department – i.e. the criteria must be capable of distinguishing between applicants right down to the last available place. It follows, therefore, that if one of the criteria drawn up by a Board of Governors will distinguish between applicants according to their performance in a named "Entrance Test", that "Entrance Test" must be robustly capable of providing, or contributing to, the basis for such distinctions.

If Boards of Governors are planning to use "Entrance Tests" in order to support academic admissions criteria, then they have a legal responsibility to use an "Entrance Test" that enables them to discharge their obligation under Article 16 (5) of the Education Order 1997. In the light of this, the Department advises any Board of Governors planning to use an "Entrance Test" of its responsibility to assure itself that, in the terms set out in this annex, its planned "Entrance Test" will be a robust assessment mechanism capable of providing for sound ability-based decisions.

**An Irish “Entrance Test”:** the Department always considered it important and necessary to provide an Irish equivalent to the Transfer Test. The Department had a range of reasons for this, not least of which was the recognition of the Irish-medium primary sector and its place within the overall school system. Indeed, the Department never considered the provision of an Irish version of the Transfer Test to be optional.

The Department has considered this question in legal terms and in relation to the prospect of independent “Entrance Tests”. As a result of this the Department would strongly advise any school planning to use an “Entrance Test” to make provision within their plans for the availability of an Irish equivalent to their English “Entrance Test”. The risk to schools that do not provide this equivalent and to the adequate standard is the threat of legal challenge to their admissions process on the grounds of indirect discrimination. Key to such a challenge would be any educational evidence that showed that children taught in Irish-medium primary schools were disadvantaged when competing with contemporaries taught in English-medium primary schools.

On Irish equivalents of English “Entrance Tests”, CCEA has advised that its Irish-medium Transfer Tests used the same Mathematics and Science items developed for the English-medium tests (translated into Irish). However, Irish Language items (to replace the items written to test English) were developed and pre-tested separately within an equally rigorous quality assurance process as that for English-medium.

**Appropriate Security measures – Reserve Test Arrangements:** Appropriate security arrangements for test materials are obviously vital but schools should understand that these security arrangements should not just consist of ensuring that all reasonable efforts are made to avoid a breach in test security. Indeed, experience has shown that accompanying such reasonable efforts, it is very necessary for there to be in place contingency arrangements for the occurrence of such a breach. The only appropriate contingency arrangement for a test that has been invalidated due to a security breach is a reserve arrangement that, just as much as the original test, will be a robust assessment mechanism capable of providing for sound ability-based decisions.

In summary, if Boards of Governors are going to use “Entrance Tests” in order to support academic admissions criteria then they should understand that they have an obligation to have an equivalent to this “Entrance Test” in reserve in case of a security breach. This obligation would be established by the liability of a Board of Governors for the breakdown in their admissions process that would inevitably occur if their planned “Entrance Test” was compromised and invalidated, and there was nothing equivalent to take its place.

**Pre-test Communications:** when it provided the Transfer Test – to be applied for by parents/pupils in the September of each year (then sat in the following November/ December of each year) – the Department communicated in August all of the information relating to the Transfer Test to

all P7 parents. The Department did this through a booklet that it issued and which was distributed to all parents through their primary schools. The booklet explained what the Transfer Test was, what it would test, when and where it would be sat, how and when parents/children should apply for the test, when results would issue and in what form, and, amongst other things, how it was supported by a Special Circumstances Procedure. Importantly, this booklet was translated into Irish, Polish, Chinese, Portuguese and Lithuanian.

If they are not to be vulnerable to a challenge of indirect discrimination, a school planning to use an "Entrance Test" must make all reasonable and comparable efforts to ensure that all parents/children who may wish to can receive and understand all of the necessary information related to a school's "Entrance Test". They need to be alert to the need to communicate the availability of the test to parents in minority groups such as Travellers, and to those parents who do not have English as their first language.

**"Entrance Test" Charges:** the Department would advise any schools intending to charge parents for entering their child to sit a test, whether means-tested or not, to consider whether parents should have to pay in order to apply meaningfully for a state school?

The Department also has some concerns about the potential for such plans to be vulnerable to a legal challenge according to the way in which Article 128 (1) may be interpreted in relation to test-charges. This Article states: "no charge shall be made in respect of admission to any grant-aided school".

**Special Circumstances Procedure:** 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. Schools that decide to use "Entrance Tests" should understand therefore that it is their responsibility to provide a special circumstances procedure.

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.

Post-primary schools that are planning to use “Entrance Tests” should also understand that the Department, when it provided the Transfer Test, sanctioned CCEA to provide the test paper in a variety of formats designed for the needs of non-statemented children with dyslexia/dyspraxia.

**Special Provision and supernumerary admissions:** any post-primary 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.

Schools contemplating using “Entrance Tests” should understand 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.

Admissions determined by procedures in support of “Entrance Tests” (Special Circumstances Procedures, Special Provisions procedure), or by the application of any admissions criteria are never supernumerary: they always count towards a school’s admissions and enrolment number.

**Usage of InCAS information:** schools are reminded of the Department’s 9 November 2009 letter which advised that– “on no account should grammar schools consider using InCAS assessment outcomes reported to parents to inform decisions on selection”.

**It is important that, in the interests of children, schools are aware of the risks associated with the decision to continue the use of unregulated tests. This series of issues should not be considered to be exhaustive.**