



# School Admissions Code



## Statutory Code

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# School Admissions Code

<b>Audience</b>	Local Education Authorities; Governing Bodies of Foundation and Voluntary Aided Schools; Church Diocesan Authorities; community and voluntary controlled schools in Wales; Estyn; Council on Tribunals; Secretaries of Professional Organisations in Wales.
<b>Overview</b>	This Code imposes requirements and offers guidance in respect of the discharge by local authorities, the governing bodies of maintained schools, admission forums and admission appeal panels of their school admissions functions. These bodies must "act in accordance with" the Code.
<b>Action required</b>	Full compliance with the Code by the school year 2011/12.
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<b>Additional copies</b>	Further copies may be obtained at the above address. This document can also be accessed from the Welsh Assembly Government website at: <a href="http://www.wales.gov.uk">www.wales.gov.uk</a>
<b>Related documents</b>	Please see Annex F.



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## Foreword by the Minister for Children, Education, Lifelong Learning and Skills



The Welsh Assembly Government believes passionately in the principles of fairness and openness. It is important that these principles apply to all aspects of school admissions. For parents and children alike, the process of starting school for the first time or transferring between schools can give rise to uncertainty and anxiety. A well functioning admissions system, which is fair and transparent, can play a vital part in helping to minimise concerns. It is also crucial in delivering equality of opportunity. This Code is intended as the foundation on which improved admissions systems can be built.

The predecessor to this Code was published in 1999 and provided a level of guidance on school admissions which was appropriate at that time. The Code has been strengthened to meet the needs of the twenty first century. There is recognition that the school admissions system can be complex and is not always understood by parents, nor, occasionally, by those responsible for administering it. The aim of this new Code is to provide clearer guidance for all those involved in school admissions so as to facilitate a system that is managed efficiently and effectively. At the same time the Code also seeks to safeguard the interests of parents, children and young people by ensuring that school admissions are administered in the fairest and most equitable way possible.

I am sure that this Code will be well received by all those with an interest in school admissions and I look forward to the positive impact that will have on the school admissions process in Wales.

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive, flowing style.

**Jane Hutt**

Minister for Children, Education, Lifelong Learning and Skills

## Contents

<b>Summary</b>	4
<b>Chapter 1 - Introduction</b>	5
Admission forums - Monitoring compliance with the Code	7
<b>Chapter 2 - Setting admission arrangements</b>	8
Duty to take account of parental and young peoples' preference	8
Principles to be applied	8
Process to be followed	9
Content of the arrangements	16
<b>Chapter 3 - Applying admission arrangements</b>	27
Application forms	27
Interviewing	29
Handling late applications and applications outside the normal admission round	29
Waiting lists	32
Admission outside the normal age group	33
Notifying parents	34
Admission appeals	35
Withdrawing offers of places	36
Duty of a governing body to implement the decision of an admission authority	36
LA power of direction	36
Other information relevant to school admission arrangements	37

<b>Annex A</b>	Boarding schools	48
<b>Annex B</b>	Admission forums	53
<b>Annex C</b>	Admission forum annual report	59
<b>Annex D</b>	Other relevant legislation	62
<b>Annex E</b>	Model application form	65
<b>Annex F</b>	Related documents	69
<b>Annex G</b>	Commencement	71
<b>Glossary</b>		72

## Summary

The Code on School Admissions contains practical guidance and imposes requirements regarding the discharge of duties in respect of admissions. Local authorities, governing bodies of maintained schools, admission appeals panels and admission forums have school admissions functions under the School Standards and Framework Act 1998. The Code includes guidelines setting out the aims, objectives and other matters relating to the discharge of admissions functions and each of the bodies or persons covered must “act in accordance with” the Code. The Code replaces the Welsh Office Code of Practice on School Admissions which was published in April 1999.

The new Code will assist everyone with an interest in admissions and admission appeals and help ensure that the admission system works for the benefit of both schools and pupils. The main changes highlighted by the Code are:

- the prohibition of the use of certain oversubscription criteria which are unfair or undesirable;
- a requirement that admission authorities’ oversubscription criteria includes ‘looked after children’ (children in care) as the first criterion in all instances;
- a prohibition on local authorities informally delegating to schools responsibility for determining admissions applications (except where the whole function of acting as admission authority has been formally delegated to the governing body);
- the setting of a) single dates of return within each local authority for all admission applications made during the normal admissions round and b) single dates on which decision letters should be issued within each local authority;
- a requirement that waiting lists are maintained where schools are oversubscribed; and
- clarification and strengthening the role of admission forums.

## Chapter 1 - Introduction

1.1 The Code is made under section 84 of the School Standards and Framework Act 1998 (referred to in this Code as the 1998 Act) as amended by section 40 of the Education and Inspections Act 2006 (referred to in this Code as the 2006 Act), which requires the Welsh Ministers to issue a Code in respect of the discharge of admissions functions by local education authorities referred to in this Code as local authorities (LAs), the governing bodies of foundation and voluntary aided schools, admissions forums and admission appeal panels. Each of these bodies has a statutory duty to “act in accordance with” this Code and the School Admission Appeals Code.

1.2 This Code supersedes the previous Code of Practice on School Admissions (1999) and applies to admissions to primary and secondary schools (including sixth forms (Year 12)). It comes into force on 15 July 2009 and applies to arrangements for intakes from 2010/11 onwards. (See Annex G for details of when particular provisions come into effect.) In broad terms, for the day to day administration of admissions, the Code must be applied immediately. Where changes introduced by the Code would depend on consultation, determination and publication of admission arrangements these would be expected to be included in published arrangements for the year 2011/12 onwards. The Code is to be read alongside the School Admission Appeals Code and other guidance and legislation that affect admissions and admissions appeals in Wales. A list of relevant documents is at Annex F.

1.3 The Code both refers to existing statutory requirements (i.e. imposed by primary or secondary legislation) and itself imposes new mandatory requirements with which those bodies listed at paragraph 1.6 below must comply. A reference to the relevant statutory provision is provided in the text or footnote as appropriate. Where mandatory requirements are imposed by this Code (or by statutory provisions) it is stated that the relevant bodies **must** comply with the particular requirement or provision. Where this Code prohibits practices, it is stated that the relevant body or bodies **must not** use this practice.

1.4 This Code also includes guidelines which the relevant bodies should follow unless they can demonstrate that they are justified in not doing so. Where guidelines refer to good practice, the Code will state that the relevant bodies **should** follow the particular guidelines. On the other hand where the guidelines refer to actions normally regarded as poor practice, the Code will state that the practice **should not** be used although there may be exceptional circumstances when it is justified.

1.5 Failure by an authority or body to comply with the mandatory provisions in this Code may result in a statutory objection (see paragraph 2.13) or complaint being made to the Welsh Ministers. Failure to follow guidelines in this Code may also lead to an objection or complaint being upheld if admission authorities are unable to justify departing from those guidelines.

1.6 The following bodies have a statutory duty to act in accordance with both this Code and the School Admissions Appeals Code:

- **Admission authorities** - LAs are the admission authorities for community and voluntary controlled schools, unless, under section 88(1)(a)(ii) of the 1998 Act, the function has been delegated in full to the governing body. Governing bodies are the admission authorities for foundation schools and voluntary aided schools.
- **Governing bodies** (when not admission authorities).
- **LAs** (when not acting as admission authorities).
- **Admissions forums.**
- **Admission appeal panels.**

1.7 This Code does not aim to give exhaustive guidance. Local circumstances vary widely and admission authorities are best placed to take the lead in considering, with partners in their area, how the needs of parents and children are to be met. The Code aims to build on the good practice that already exists.

1.8 The Code is primarily for those responsible for determining and implementing admission arrangements and for appeal panel members and clerks to those panels but parents and others may also find it useful.

### **Admission forums - Monitoring compliance with the Code**

1.9 Admission forums **must** monitor compliance with this Code. Details on their role in this can be found at Annex B, together with the pro-forma to be used for making mandatory annual returns to the Welsh Assembly Government, for monitoring purposes (Annex C).

## Chapter 2 - Setting Admission Arrangements

### **Duty to take account of parental and young peoples' preference**

2.1 Sections 86 and 86A of the 1998 Act require admission authorities to make arrangements enabling the parents<sup>1</sup> of children in their area and, in the case of sixth form admissions in relation to admission to the academic year 2010/11 and from then on, young people, to express a preference for a school and to give reasons for that preference. Where a parent or young person expresses a preference according to those arrangements, sections 86 and 86B place a specific duty on LAs and governing bodies to comply with that preference, subject to the exceptions set out in sections 86(3), 86B and 87 of the 1998 Act. These can be summarised as:

- Where compliance with the preference would prejudice the provision of efficient education or the efficient use of resources (including prejudice which might arise by reason of measures required to be taken to ensure compliance with the infant class size limit);
- Where arrangements for entry to a school's sixth form are based wholly on selection by reference to ability or aptitude and compliance with the preference would be incompatible with selection under those arrangements;
- Where a child has been permanently excluded from two or more schools and the latest exclusion took place within the last two years.

### **Principles to be applied**

2.2 In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide on the allocation of school places:

- Are clear in the sense of being free from doubt and easily understood. Arrangements that are vague only lead to uncertainty and this may reduce the ability of parents to make an informed choice for their children.
- Are objective and based on known facts. Admission authorities and governing bodies must not make subjective decisions, or use criteria which are subjective or arbitrary in nature.

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<sup>1</sup> Section 576 of the Education Act 1996 provides that in relation to a young person or child, the term 'parent' includes any person who is not a parent but who has parental responsibility (as defined by the Children Act 1989) or care of the child.

- Are procedurally fair and are also equitable for all groups of children (including those with additional learning needs (ALN), disabilities, those in public care, or who may be a young carer).
- Provide parents or carers with easy access to helpful admissions information (Regulations require the LA to produce a composite prospectus that covers admission arrangements for all schools in their area. See paragraph 2.12).
- Comply with all relevant legislation and have been determined in accordance with the statutory requirements and the provisions of this Code. Failure to comply with a statutory requirement or any proposal to use unlawful arrangements can be referred to the Welsh Ministers who may use powers under section 496 of the Education Act 1996 to make a direction to enforce the statutory requirement or prevent an unlawful act.

## Process to be followed

### *Determination year*

2.3 Admission arrangements **must** be consulted on and set for each maintained school<sup>2</sup> between 1 September and 15 April of the school year (the 'determination year'<sup>3</sup>) beginning two years before the school year in which the arrangements will apply. The first step in the process is for the admission authority to draw up proposed arrangements in accordance with the principles outlined above. These proposed arrangements **must** then be consulted upon (except where indicated below).

### *Consultation*

2.4 LAs must consult each year on the admission arrangements for those schools for which they are the admission authority. Governing bodies which are also the admission authority for a school must also consult annually except where they have consulted on their proposed arrangements within the previous two determination years, those arrangements are unchanged, and no objection has been made to the Welsh Ministers (or previously the National Assembly) about their admission arrangements in the preceding five years. In addition, the LA maintaining the school must have

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<sup>2</sup> Section 20 of the 1998 Act.

<sup>3</sup> The Education (Determination of Admission Arrangements) (Wales) Regulations 2006.

notified the Welsh Ministers that all the admission authorities in the relevant area<sup>4</sup> undertook the required consultation in the relevant determination year.

2.5 The bodies with which admission authorities **must** consult are set out in the following table:

Admission Authority	Consultees
LAs.	The governing body of the relevant school; all neighbouring LAs; the admission authorities for all other maintained schools in the relevant area; the governing bodies of all other schools in the relevant area (i.e. community and voluntary controlled schools which do not have delegated admissions powers).
The governing bodies of foundation and voluntary aided <b>primary</b> schools and of community and voluntary controlled <b>primary</b> schools where responsibility for admissions has been delegated to them.	The maintaining LA; the admission authorities for all other maintained <b>primary</b> schools in the relevant area; any LA whose area adjoins the relevant area; the governing bodies for all other <b>primary</b> schools in the relevant area (i.e. community and voluntary controlled schools which do not have delegated admissions powers).
The governing bodies of foundation and voluntary aided <b>secondary</b> schools and of community and voluntary controlled <b>secondary</b> schools where responsibility for admissions has been delegated to them.	The maintaining LA; the admission authorities for all other maintained schools in the relevant area; any LA whose area adjoins the relevant area; the governing body for <b>all</b> other schools in the relevant area (i.e. community and voluntary controlled schools which do not have delegated admissions powers).

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<sup>4</sup> The Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

2.6 The bodies with which admission authorities **should** also consult are set out in the following table:

Admission Authority	Consultees
LAs.	The admission forum serving the relevant area; where a significant change is proposed, parents of children likely to be affected.
The governing bodies of foundation and voluntary aided schools and of community and voluntary controlled schools where responsibility for admissions has been delegated to them.	The admission forum serving the relevant area; in the case of schools with a designated religious character, the relevant diocesan authority; where a significant change is proposed, parents of children likely to be affected.

2.7 Consultation **must** be in writing and **must** cover the full details of proposed admission arrangements for each school, including:

- a. admission numbers for any age group to which children are normally admitted<sup>5</sup> (the relevant age groups);
- b. application procedures and the timetable for the admissions process;
- c. the oversubscription criteria to be used;
- d. any separate entry requirements and oversubscription criteria for the sixth form;
- e. arrangements and oversubscription criteria for nursery places, if applicable;
- f. information about how waiting lists operate and how long they will be maintained, (i.e. at least until the 31 August in the year of entry and beyond that at the admission authorities' discretion);
- g. information about handling of late applications (i.e. those which miss the deadline) and the making and processing of applications outside the normal admissions round (see paragraph 3.9 to 3.15);

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<sup>5</sup> As defined by section 142 of the 1998 Act.

- h. details of how parents will be notified of admissions decisions and can take up their right of appeal;
- i. in the case of a school with pre-existing partially selective arrangements<sup>6</sup> the manner in which partially selective arrangements operate;
- j. information about any provision made for pupil banding;
- k. catchment area maps (where appropriate).

2.8 When determining the number of pupils to be admitted to a relevant age group, admission authorities **must** have regard to the 'indicated admission number' for that relevant year group. The indicated admission number is the number calculated in accordance with the capacity assessment method set out in the guidance document 'Measuring the Capacity of Schools in Wales'. This guidance is available on the Welsh Assembly Government's website at [www.wales.gov.uk](http://www.wales.gov.uk).

2.9 Consultation **must not** start before the beginning of the determination year (1 September) and **must** be completed by 1 March of that year.

### ***Determination of arrangements***

2.10 Once consultation has been completed, admission authorities **must** determine their admission arrangements either in their original form or with such modifications as the authority think fit by 15 April in the determination year. They **must** then notify in writing within 14 days all those with whom they consulted (or would have consulted had the exception outlined in paragraph 2.4 not applied) on their determined arrangements.

### ***Publication of arrangements***

2.11 Where the admission authority has determined an admission number for a relevant age group which is lower than the current indicated number for that age group or where admission arrangements provide for selection of pupils by ability, these **must** be published in a local newspaper within 14 days of the determination. The details published **must** include an explanation

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<sup>6</sup> As defined by section 100 of the 1998 Act.

of parents' right to object to the Welsh Ministers about such selection arrangements or lower admission number. The admission authority **should** consult parents and other interested parties about the intention to determine a lower number.

2.12 Each LA **must** publish an annual composite prospectus which sets out the determined admission arrangements (including a timetable for the admissions process which sets out the relevant dates for the receipt and determination of applications and for the receipt of appeals) for **every** maintained school within its area<sup>7</sup> and ensure that up to date arrangements are included. This prospectus **must** be published by 1 October in the school year immediately preceding the school year to which the admission arrangements will apply or no later than six weeks before the date by which parents may express a preference. Admission authorities other than LAs **must** ensure that they supply their relevant LA with a copy of their admission arrangements in sufficient time to allow the LA to comply with these publication requirements.

### ***Objections to arrangements***

2.13 If the bodies listed as consultees in paragraph 2.5 wish to object to the determined admission arrangements they **must** do so in writing to the Welsh Ministers within six weeks of the date on which they were notified that the arrangements had been determined<sup>8</sup>. Later objections will only be considered if the Welsh Ministers are satisfied that it was not reasonably practicable for the objection to have been received earlier than the time it was received.

2.14 However, the governing body of a community or voluntary controlled school (which does not have delegated admissions powers) may not make an objection to:

- The admission arrangements for any other community or voluntary controlled school in the relevant area for whom the LA are the admission authority; or
- The admission arrangements for the school for which they are the governing body, unless the objection relates to the determination of an admission number for that school (see paragraph 2.8).

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<sup>7</sup> The Education (School Information) (Wales) Regulations 2002.

<sup>8</sup> Education (Objections to Admission Arrangements) (Wales) Regulations 2006.

2.15 Objections can not be made if the substance of the objection is to seek an alteration to the admission arrangements which can only be made by way of publishing statutory proposals, for example, the introduction of pupil banding or single sex admissions.

### ***Parental objections***

2.16 Parents who are eligible to object (see paragraph 2.18) may do so in the case of 'pre-existing' selection arrangements, i.e. arrangements for selection by ability which have been in place since the beginning of the 1997/98 school year. This right of objection does not however, apply to pupil banding or admissions to sixth forms.

2.17 Eligible parents may also object to a proposed admission number for any year group which is set lower than that indicated by the capacity assessment method set out in the guidance document "Measuring the Capacity of Schools in Wales" (see paragraph 2.8).

2.18 To be eligible to object to pre-existing selection arrangements a parent **must** be resident in the relevant area for the school and have a child of compulsory school age in primary education. To be eligible to object to a proposed admission number, a parent **must** be resident in the relevant area for the school and have a child who is aged between 2 and 5 years or who is of compulsory school age receiving primary education. An objection may only be determined by the Welsh Ministers if five or more parents make the same or substantially the same objection to the same admission arrangements.

### ***Variation to determined arrangements***

2.19 Once admission arrangements have been determined for an academic year they may only be varied where:

- a. There has been a major change of circumstances (e.g. a fire which has destroyed classroom space);

- b. A genuine error, omission or misprint has occurred in the determined arrangements, or an admission authority has been made aware of the inclusion of unlawful practices in its admission arrangements;
- c. An admission authority sees a need to revise its admission arrangements in the light of a Welsh Ministers determination in relation to another school with the same or substantially the same admission arrangements; or
- d. It is necessary to vary the determined admission number to implement approved statutory proposals published under section 28 of the 1998 Act.

2.20 In the case of a, b and c above, the admission authority must first notify the proposed variation to the consultees listed in paragraph 2.5 above and then refer the matter to the Welsh Ministers for determination. This process is not required in relation to point d or to the variation needed to give first priority to looked after children which has been provided for in Regulations<sup>9</sup>.

### ***Admission arrangements for new schools***

2.21 The New School (Admissions) (Wales) Regulations 2006 set out the process by which the initial arrangements for admission to new schools should be determined. These arrangements should be made in accordance with the principles, requirements and guidance found in this Code.

### ***Common dates of return and common dates of offer issue***

2.22 In order to ensure consistency between admission authorities and avoid confusion on the part of parents, all admission authorities in any LA area **must** have common dates of return for primary applications and secondary applications for the normal year of entry, and **must** send out decision letters on dates agreed in consultation with all admission authorities in the area. Different common dates may be agreed for primary and secondary applications. Admission authorities should consult neighbouring authorities through their admission forum to agree common dates where this is feasible.

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<sup>9</sup> Education (Admission of Looked After Children) (Wales) Regulations 2009.

## Content of the arrangements

2.23 All maintained schools in Wales (including schools with a designated religious character), that have enough places available **must** offer a place to every child who has applied (except where they are twice excluded, see paragraphs 3.54 to 3.56). However, some schools will have more applicants than places. Admission authorities **must** therefore have in place, as part of their admissions arrangements, criteria to determine the allocation of places in the event of oversubscription. Authorities **must** ensure these criteria are fair, that the order in which they will be applied is made clear, and that there is provision for a tie-breaker if it is necessary to distinguish between applicants who fall into the lowest criterion which is used. The criteria **must not** require any 'interpretation' and **must** be clear and unambiguous.

2.24 This chapter prohibits the use of oversubscription criteria that are unfair or undesirable. It also provides guidelines and examples of good practice for admission authorities to help them set criteria that are fair to all children and their families.

2.25 The most common oversubscription criteria are covered in this chapter but it is not practicable to provide an exhaustive list of what is good practice and what is not. For example, there may be criteria not mentioned here that are also unfair and should not feature in a school's admission arrangements. It is possible for a criterion to be fair in some circumstances and not in others, as in the case of the sibling criterion. It is for admission authorities, acting in accordance with the provisions and guidelines in this Code, to decide which criteria they will use and in what circumstances.

### ***Prohibition of undesirable oversubscription criteria***

2.26 In setting oversubscription criteria admission authorities **must not:**

- Adopt criteria which select pupils on the basis of ability or aptitude (except in relation to school sixth forms)<sup>10</sup> except schools with partially selective arrangements which already had such arrangements in place at the beginning of the 1997/98 school year and are permitted to continue to use selection by ability. There is only one school in Wales with partially selective arrangements. The general prohibition on ability based criteria includes, in the case of Welsh medium schools, the ability to speak Welsh.
- Give higher priority to children whose parents are more able or willing to support the ethos of the school or to support the school financially or in some other way.
- Give higher priority to children according to the background or status of parents, including marital status or sexual orientation.
- Take account of reports about past behaviour, attitude or achievement.
- Discriminate against or disadvantage children with ALN or disabilities.
- Allocate places at a school on the basis that a sibling or other relative is a former pupil.
- Take account of the behaviour of other members of a child's family, whether good or bad, including a good or bad attendance record.
- Give priority to children whose parents are current or former staff or governors or who have another connection to the school.
- Give priority to children who (or whose parents) have particular interests, specialist knowledge or hobbies.
- Give priority to children based on the order in which applications were received.
- Expressly exclude applicants from a particular social or religious group.
- State that **only** applicants from a particular social or religious group will be considered for admission.

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<sup>10</sup> Except in relation to school sixth forms and banding the 1998 Act made it unlawful for any school to adopt selection by ability as a means of allocating places. Section 39 of the 2006 Act reaffirms the position.

- Give priority to children based on religious faith except where the school has been designated<sup>11</sup> as having a religious character (Equality Act 2006).
- Allocate places on the basis of chronological age.
- In the case of application to a reception class, give priority to children who have attended the school's nursery class or co-located children's centre (see paragraph 2.54).
- Make admission to a school conditional on parents signing a home-school agreement<sup>12</sup>. (Schools must not ask parents to sign agreements before they have been offered a place at the school.)
- Random allocation e.g. lottery.

### ***Guidelines on setting fair oversubscription criteria***

2.27 Looked after children (children in public care)<sup>13</sup> are among the most vulnerable children in society. As set out in the Placement of Children (Wales) Regulations 2007 and Towards a Stable Life and a Brighter Future Guidance which came into force in July 2007, it is of paramount importance that a school place is found as quickly as possible, that is in the best interests of the child.

2.28 For the purposes of setting and administering oversubscription criteria a looked after child is a child who is looked after by a local authority in Wales or England in accordance with section 22 of the Children Act 1989 and whom the LA has confirmed will be looked after at the time of child's admission to the school. Subject to the exceptions in paragraphs 2.29 to 2.31 all admission authorities **must** give highest priority in their oversubscription criteria to these looked after children as required by the Education (Admission of Looked After Children) (Wales) Regulations 2009 and as required by this Code.

2.29 Admission authorities for schools with a designated religious character (faith schools) may give first priority to all looked after children, whether or not of the faith but **must** give first priority to looked after children of their faith above any other children of their faith. If they give first priority to looked after children of the

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<sup>11</sup> The Designation of Schools Having a Religious Character (Wales) Order 2007.

<sup>12</sup> Section 111 of the 1998 Act.

<sup>13</sup> This means a child who is looked after by a LA in Wales or England in accordance with section 22 of the Children Act 1989.

faith, then they must give a higher priority to looked after children not of the faith than other children not of that faith.

2.30 Admission authorities for schools which have provision for selection by ability **must** give higher priority to looked after children who have been selected by ability over other children who have been selected by ability. Looked after children who have not been allocated a place on the basis of ability **must** be given priority over other children who have not been allocated a place on that basis.

2.31 Admission authorities for schools which make provision for selection by banding **must** give priority to looked after children within each band over another child who is eligible for a school place within that band.

2.32 The remaining criteria listed below, are not preferred criteria but rather those most commonly used. Guidance is provided on the circumstances in which their use will be acceptable and when it would not. It is for admission authorities to decide whether any of these criteria are appropriate in their local circumstances, but where this Code states that, in particular circumstances, a criterion **should not** be used, admission authorities must be prepared to justify their decision to use the criterion if an objection is made to the Welsh Ministers.

### ***Siblings of pupils still at the school***

2.33 Giving priority to children who have siblings who will be at the school when they join may support parents of young children. Admission authorities **should** give consideration particularly to the needs of younger children at primary schools, where parents may have problems with transporting children placed at different schools. Admission authorities **should** also consider carefully how twins or triplets or other relatives, including those adopted, living permanently in the household will be treated if a sibling criterion is adopted.

2.34 If using a sibling criterion, admission authorities should bear in mind that different ethnic and social groups may understand terms such as “sibling” in different ways. Admission authorities should make clear the position of other children living in the same household and define terms used such as step-children, and once defined **must** use the same definition consistently.

### ***Multiple birth children (e.g. twins or triplets)***

2.35 Particular difficulties may occur if schools can admit a child but not his or her siblings, and parents may be deterred by the prospect of taking children to two or more schools. Admission authorities **should** consider how they will treat multiple birth children when prioritising applications. If necessary appropriate over-subscription criteria should be included in published admission arrangements.

### ***Medical need***

2.36 Admission authorities may give higher priority to children or families where there is a medical need (for example where one or both parents or the child has a disability that may make travel to a school further away more difficult).

2.37 If using this criterion, admission authorities **must** give a clear explanation of what supporting evidence will be required - for example a letter from a registered health professional such as a doctor or social worker - and how this will be assessed objectively. It should be made clear that the supporting evidence should set out the particular reasons why the school in question is the most suitable school and the difficulties that would be caused if the child had to attend another school. Admission authorities **must not** give higher priority to children under this criterion if the required documents have not been produced.

2.38 This criterion, if used, **must not** relate to particular aptitudes for some subjects such as in sport or music. For example, schools **must not** seek to admit children, under this criterion, on the basis e.g. that they ‘need’ to attend the school because they have an aptitude or interest in sport and the school has particularly good sports facilities.

### ***Faith-based oversubscription criteria***

2.39 Schools designated as having a religious character may give preference in their admission arrangements to members of a particular faith or denomination, providing this does not conflict with other legislation, such as equality legislation or the mandatory provisions of this Code. As with all other maintained schools faith schools **must not** keep open places if they have insufficient applicants of their own faith and other families have applied for a place at the school.

2.40 As with all oversubscription criteria, those that are faith-based **must** be objective and transparent. Parents and families **must** be able to understand easily how the criteria will be satisfied.

2.41 Where preference is to be given to members of a particular faith, published admission arrangements **must** make clear how religious affiliation or commitment is to be demonstrated - for example by a simple statement of affiliation, or through a reference signed by the family's priest, minister, or other representative(s) of the church (any reference **should** be in writing). Where reference is made to the frequency of attendance at worship, the definition should be specific and refer, for example to 'weekly worship' rather than 'regular worship'. It also needs to be made clear whether any requirement is to be met by the parents (or one parent if only one parent is an adherent of the particular faith) or by the child or both.

### ***Guidance provided by church or religious authorities***

2.42 Church or religious authorities may provide guidance for the admission authorities of schools of their faith that sets out what process and criteria may be used to establish membership of the faith. Such guidance should clearly define the terms used and how membership is to be determined, and **must** be consistent with the provisions and guidelines of this Code. Where such guidance is produced, the admissions authorities for schools of the faith **should** follow it.

2.43 Admission authorities for faith schools **should** consider how their particular admission arrangements impact on the local community. Faith schools can contribute to community cohesion by having admission arrangements that are inclusive of other faiths and of all elements of the population of their local area.

2.44 Faith schools, as a minimum, **must** give first priority in their oversubscription criteria to looked after children of their faith (see paragraph 2.29).

### ***Distance between home and school***

2.45 Distance between home and school is a clear and objective oversubscription criterion and is useful as a tie-breaker. Where an admission authority determines to use the distance between home and school as part of oversubscription criteria it **should** explain clearly how distance from home to the school will be measured including the points at the school and the child's home from which distance is to be measured (for example, the main school gate, the front door to the home, how flats will be treated) and care should be taken to use a reliable and reasonable system which parents can readily understand.

2.46 Where a child lives with parents with shared responsibility, each for part of a week, the oversubscription criteria need to make clear how the 'home' address will be decided in a fair and considered way.

### ***Catchment areas***

2.47 The 1997 Rotherham Judgment<sup>14</sup> confirmed that there is nothing unlawful in the principle of admission authorities operating catchment areas as part of their oversubscription criteria and thereby giving priority to local children whose parents have expressed a preference for the school. However, admission authorities **should not** guarantee places to parents in a local catchment area, in case the number of in-catchment applications in any one year cannot be accommodated.

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<sup>14</sup> R v Rotherham Metropolitan Council ex parte Clark and others (1997) EWCA Civ 2768.

2.48 LAs **must not** suggest that parents should express a preference for the school in whose catchment area they live, or that they have been allocated a place at that school before they have expressed a preference. Although they **should** explain the possible consequences of not doing so, LAs **must** make it clear that parents are allowed to express a preference for any school they choose.

2.49 For children of UK Service personnel, admission authorities **must** treat a family moving to their area as meeting the residency criteria for the relevant school catchment area once proof of the posting has been provided, even if no address is currently established in that area.

2.50 Where catchment areas are used, admission authorities **must** make maps of the areas available, for example on their websites or in public libraries. Catchment areas **must not** be set or changed after applications have been made. There is nothing to prevent parents expressing a preference for a school if they live outside its catchment area.

### ***Additional guidelines relating to primary schools***

2.51 If a primary school has more than one year of entry (for example where a separate infants school feeds into a primary school junior department) separate arrangements **must** be determined for each of the years of entry.

2.52 When determining and publishing the arrangements for admission to a reception class, the admission authority **must** make it clear that:

- The arrangements do not apply to those being admitted for nursery education including nursery provision delivered in a co-located children's centre.
- Parents of children who are admitted for nursery education will still need to apply for a place at the school if they want their child to transfer to the reception class.
- Attendance at the nursery or co-located children's centre does not guarantee admission to the school.

- Parents can request that the date their child is admitted to the school is deferred until later in the school year or until the child reaches compulsory school age in that school year, see paragraph 2.55 below.

2.53 Where schools admit nursery pupils, arrangements for their admission **must** be separately identified.

2.54 Admission authorities **must not** include attendance at the nursery or the co-located children's centre for nursery education in their oversubscription criteria. Such arrangements can advantage those parents willing to travel a substantial distance to allow their child to attend nursery school so that they will have priority in admission to the primary school over more local parents. Such criteria may also disadvantage families who have recently moved to the area and those who have opted for other providers or who choose to take up the free entitlement at an alternative local provider. It may make some parents feel they have to enrol their child at the school before they consider him or her ready, in order to gain a place at the primary school.

2.55 The law does not require a child to start school until the start of the term following the child's fifth birthday. Where the admission authority for a primary school offers places in reception classes to parents before their children are of compulsory school age, they **must** allow parents the option of deferring their child's entry until later in the same school year. The effect is that the place is held for that child and is not available to be offered to another child. The parent would not however be able to defer entry beyond the beginning of the term after the child's fifth birthday, nor beyond the academic year for which the original application was accepted. This **must** be made clear in the admission arrangements for the school.

2.56 Where there are separate but 'paired' infant and junior schools, published arrangements must make it clear that parents of children at the infant school will need to apply for places at the junior school and that attendance at the infant school does not guarantee a place at the junior school.

### ***Additional guidelines for secondary schools***

2.57 The use of named feeder primary schools as an oversubscription criteria can allow better continuity for pupils but needs to be used with caution. Admission authorities **should** ensure that such arrangements do not unduly disadvantage children who move into an area at a late stage and consider carefully the impact that such arrangements have on the ability of a school to serve its immediate local area.

### ***Sixth form admission arrangements***

2.58 If an admission authority wishes to adopt specific arrangements for admissions to a school sixth form, including a separate admission number, it **must** consult on, determine and publish those arrangements at the same time and in the same way as all other admission arrangements.

2.59 Applications for admission/entry to a sixth form may be made by either the parent or the young person or both. These applications **must** be treated in the same way as any other application for admission to a school.

2.60 Admission authorities are permitted to set arrangements for entry to sixth forms which are wholly based on selection by reference to ability and where such arrangements exist, the duty to comply with that preference does not apply<sup>15</sup>. This means that a young person can be refused a place even if the year group is not full. However, before setting criteria for transfer or admission to the sixth form which are based on ability, admission authorities **should** take into account the needs of the young person and the provision of suitable post compulsory education available in the area that a young person would have access to if they failed to meet the criteria.

2.61 Admission authorities may establish a set of oversubscription criteria for entry to sixth forms which differ from the oversubscription criteria applied in the case of younger year groups. These criteria might include selection by ability. They would only need to be used where there are more applications than places.

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<sup>15</sup> Section 86(3A) and (3B) of 1998 Act.

2.62 To enable the effective application of sixth form oversubscription criteria, admission authorities need to publish a separate sixth form admission number calculated using the 'Measuring the Capacity of Schools in Wales' formula. Unless this is done the relevant admission number would be the admission number which applies at Year 7 which is likely to be too high.

2.63 Any admission authority which sets wholly selective sixth form admission arrangements **must** apply those arrangements equally to both young people who are currently attending the same school but seeking entry to the sixth form and those who are applying to be admitted to the school for the first time. In all other instances young people who are already attending the school will not need to apply for entry to the sixth form and cannot be refused entry.

2.64 Schools **must not** interview young people or their families for entry to a sixth form, although meetings can be held to provide advice on options and entry requirements for particular courses. Entry **must not** be dependent on attendance, behaviour record, or perceptions of attitude or motivation.

## Chapter 3 - Applying Admission Arrangements

3.1 All admission authorities **must** consider and decide on applications for school places in accordance with their published arrangements.

3.2 If a school is oversubscribed then the admission authority **must** consider all applicants against its published oversubscription criteria (except looked after children or children with a statement of SEN).

3.3 In a normal year of entry, a child **must not** be refused admission to a school on the grounds of prejudice to efficient education or the efficient use of resources except where the number of applications for admission exceeds the admission number<sup>16</sup>.

3.4 When considering applications to years other than the normal year of entry, (i.e. reception or year 7) admission authorities **should** admit to the school's admission number and will rarely be able to prove prejudice as a ground for refusing an additional pupil while numbers remain below the admission number. However, as the admission number reflects the school's ability to accommodate pupils, it **should not** be exceeded to any significant degree in relation to any year group. If an admission number is routinely exceeded overcrowding could result.

### Application forms

3.5 All applications for admission **must** be made by means of a completed application form. This includes applications made on behalf of a looked after child by a corporate parent where the LA is both the corporate parent and the admission authority. Admission authorities **must** ensure that an application form is produced for each of the schools for which they are responsible. These forms may relate to just one school or to a group of schools. Each form **must** include the deadline by which it is to be returned (i.e. the common date of return) together with the name and address of the person to whom it should be sent. They **should** ask for the following information (a model form is provided at Annex C):

- the child's or young person's full name, date of birth and place of residence (as this may differ from the parent's address);

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<sup>16</sup> Section 86(5) of the 1998 Act as substituted by section 47 of the Education Act 2002.

- the child's or young person's sex (where authorities have single sex secondary schools);
- whether the child is a 'looked after child' (child in care);
- whether the child has a statement of SEN which includes a named school;
- the young person's or parent's preferred school/s (in order of preference);
- the name/s and dates of birth of older children already in attendance at the preferred school/s (where sibling links are an oversubscription criterion);
- the young person's or child's current school (where feeder schools are a criterion);
- the young person's or parent's signature, printed name, correspondence address and telephone number; and
- over-riding medical reasons for admission with supporting evidence (where medical reasons are an oversubscription criterion).

To avoid the potential for discrimination, additional information on matters which are not directly relevant to the published oversubscription criteria **should not** be sought.

3.6 Admission authorities should also consider providing the following information on application forms:

- That the child/young person on behalf of whom a preference has been expressed will be given priority and that failure to express a preference/submit a form will make it less likely that the child/young person will be able to attend a school of his/her or his/her parent's choice.
- That attendance at a nursery class within a primary or infant school does not guarantee a place in the school's reception class and that an application form must be submitted.
- That all first preferences will be met except where the number of applications exceeds the number of places available and that in such cases places will be allocated on the basis of the published oversubscription criteria.
- The authority's oversubscription criteria.

- A number to contact in the event that parents/young person wish to find out the relevant catchment area school/s (English/Welsh medium or denominational) where a catchment policy is in operation.
- That there is no right of appeal in relation to nursery admissions.

## Interviewing

3.7 Section 88R of the 1998 Act (inserted by the Education and Skills Act 2008) prohibits the interviewing of parents, a young person and/or a child as a method for deciding whether a place should be offered to the child/young person at a school. This includes both face to face interviews and those using the telephone or other means, for example written questions and answers and essays. Open evenings and other events for prospective parents, young people and children are not affected, but information gained at these events **must not** play a part in the decision making process. Attendance at an open evening or other meeting at the school **must not** be a condition for the allocation of a place.

3.8 This prohibition does not apply to interviews conducted by boarding schools solely for the purpose of determining a child's suitability for a boarding place (see Annex A).

## Handling late applications and applications outside the normal admission round

3.9 Admission authorities **should** have an agreed policy on handling late applications. They **should** accept applications which are received after the closing date for application when a good reason is given, for example, when a single parent has been ill for some time, or a family has just moved into the area, or is returning from abroad - provided applications are received before offers of places are made. Looked after children and children with statements of SEN that name a specific school **must** be admitted regardless of when their application was received.

3.10 In dealing with applications outside the normal admissions round, whether in-year or for a school year which is not the normal point of entry to the school, admission authorities **must** comply with parental preference or in the case of a sixth form a young person's preference unless one of the statutory reasons (see paragraph 2.1) for refusing admission applies.

3.11 Anyone expressing an interest in admission **must** be given an application form at the first point of contact. Once received, such applications **must** be considered without delay and a formal decision either to offer or to refuse a place **should** be made and notified to the applicant within 15 school days or 28 calendar days whichever is the sooner. Applicants **must not** be refused the opportunity to make an application, or told that they can only be placed on a waiting list rather than make a formal application.

3.12 Applications for admission to school for a short period only **must** be treated in the same way as any other application for admission.

3.13 The same statutory reasons for refusing admission apply outside the normal admission round as with applications made during the normal admissions round. Admission authorities **must not** refuse to admit a child because they followed a different curriculum at their previous school. However, in such instances, parents should be made aware of the curriculum on offer at the chosen school.

3.14 While it is essential that children who have no school place are found one quickly, section 433 of the Education Act 1996 permits deferment of admission to the start of a school term. In cases involving school transfers that do not require a house move, or where there is no need for an immediate move, admission authorities may wish to arrange for a child to start at the school at the beginning of term to minimise disruption to their own and other children's education. Admission authorities **must** ensure this does not prejudice vulnerable children such as those described in the paragraphs below.

3.15 Where an application outside the normal admission round is made some time in advance of the requested start date (e.g. where a pupil is due to move into an area several months hence) the admission authority **should** consider carefully in the circumstances of the case, the length of time it would be reasonable to hold open the place for the pupil. It would not normally be appropriate to hold open a place for more than a school term.

### ***Looked after children***

3.16 The Education (Admission of Looked after Children) (Wales) Regulations 2009 places a duty on admission authorities in Wales to admit children looked after by a local authority in Wales where an application for admission outside the normal admissions round is made by the corporate parent on their behalf. However, before making an application, the corporate parent (i.e. the Welsh LA responsible for looking after the child) **must** consult with the relevant admissions authority (and in the case of a looked after child permanently excluded from two or more schools, the governing body of the relevant community or voluntary controlled school) and make every effort to ensure the appropriateness of the named school in the light of the child's background including ALN and/or faith needs. The consultation need not be onerous and a telephone call between the parties should be sufficient.

3.17 Where an admission authority (or governing body of a community or voluntary controlled school in the case of a looked after child permanently excluded from two or more schools) believes that compliance with the duty to admit a looked after child would seriously prejudice the provision of efficient education or the efficient use of resources, it may, within 7 calendar days of the date on which the application is received, refer the matter to the Welsh Ministers. Any such reference must be made in writing, and **must** set out the admission authority's (or governing body's) basis for believing that serious prejudice will arise. The Welsh Ministers may either uphold the duty to admit, or if the LA that looks after the child agrees, determine that another school in Wales **must** admit the child. The decision of the Welsh Ministers is binding.

3.18 The Welsh Ministers may not determine that an alternative school must admit the child if the child has already been excluded from that school or if the admission would seriously prejudice the provision of efficient education or the efficient use of resources. Where an admission application on behalf of a looked after child is not referred to the Welsh Ministers, the decision to admit **must** be notified to the applicant within 10 calendar days and the child **must** be permitted to take up the place from the next available school day.

### ***Gypsy and Traveller Children***

3.19 The Gypsy Traveller community is very strongly family orientated and parents will always want all of the children in their family to attend the same school when stopping in an area. It is an important element of their culture that older children are expected to look after younger siblings and this especially applies in the school context. If places are not found for all children in the family in the same school, this could result in them being kept home for long periods whilst waiting for places. This potentially presents particular difficulties for admission authorities where families arrive outside the normal admissions cycle.

3.20 Arrangements **must** be in place for Gypsy and Traveller children to be registered quickly at a school whether residing permanently or temporarily in the area. Best practice in relation to access to education for this group of learners can be found in the Welsh Assembly Government's 'Moving Forward - Gypsy Traveller Education' guidance document.

### **Waiting lists**

3.21 Admission authorities **must** maintain waiting lists for oversubscribed schools, details of which must be set out in the published admission arrangements. Following the allocation of places during the normal admissions round, children **must** remain on the waiting list until the 31 August in the school year in which they apply. In all other cases admission authorities **should** consider maintaining waiting lists for a set period. Thereafter the parents **should** be expected to make a fresh application for admission.

3.22 If additional places become available while the waiting list is in operation they **must** be allocated to children on the waiting list on the basis of the published oversubscription criteria. Waiting lists **must not** give priority to children based on the date the application was added to the list. For example, if a child moves to an area outside the normal admissions round and has higher priority under the oversubscription criteria, they **must** be ranked above those with lower priority already on the list. Admission authorities **should** notify parents of where their child has been placed on a waiting list but **must not** give any indication of the likelihood of being offered a place.

3.23 Where school places become vacant before admission appeals are heard, admission authorities **must** fill these vacancies from any waiting list. Placing a child's name on a waiting list does not affect the parent's right of appeal against an unsuccessful application.

### **Admission outside the normal age group**

3.24 Although most children will be admitted to a school with their own chronological age group, from time to time parents seek places outside their normal age group for gifted and talented children, or those who have experienced problems or missed part of a year, often due to ill health. While it would not normally be appropriate for a child to be placed in a year group that is not concurrent with their chronological age, admission authorities **should** consider these requests carefully and make decisions on the basis of the circumstances of each case and in consultation with the parents and the school, and specifically in relation to what is most beneficial to the child. Due regard should also be given to the Educational Psychologist's report where available, and clear reasons ascertainable for such a decision to be made.

3.25 If it is decided that there are grounds to consider an 'out of year' application, parents refused an application for a place at a school have a statutory right of appeal. However, there is no right of appeal if a place has been offered but not in the desired year group.

## ***Decision taking***

3.26 Where the school is its own admission authority, the admissions committee established by the governing body, **must** make such decisions<sup>17</sup>. Decisions on admissions **must not** be made by one individual in a school. Where the LA is the admission authority the decision **must** be taken by the appropriate LA officer(s) (usually the admissions officer). Whilst LAs may delegate all of their admissions functions to a governing body of a community or voluntary controlled school, they **must not** delegate to the governing body (or Head) part of the functions of an admission authority such as the power to decide admissions applications.

3.27 Heads or other school officials **must not** give parents an expectation that their application will be successful, or tell them that their child has been given a place at the school, before an offer of a place has been made formally. Where there is evidence that parents have been told by a head, or other school official, that their child will be given a place at a school, they could reasonably expect that the person making the offer had authority to do so. If an informal offer has been made the admission authority **should** normally honour the offer, even though in fact it may not have authorised that person to make it.

## **Notifying parents**

3.28 The outcome of all admission applications **must** be notified to parents in writing. The letter **must** be expressed clearly without the use of jargon.

3.29 Where the application is being accepted, a starting date **should** be included where possible. Admission authorities **must** include a return proforma asking parents if they will/will not be taking up the place offered and set a deadline for its return.

3.30 Where the application is being rejected, the letter **must** set out the reasons for the decision taken including the number of applications received, the number of places available, and the oversubscription criteria applied. If the refusal is because of the infant class size limit this must be made clear. The letter should also include

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<sup>17</sup> The Government of Maintained Schools (Wales) Regulations 2005.

information on the parents' right of appeal against the decision, the process for doing this, and the deadline for responding.

## Admission appeals

3.31 Section 94 of the 1998 Act provides that parents may appeal against decisions "as to the school at which education is to be provided for the child in the exercise of the authority's functions". In the case of sixth form admissions<sup>18</sup>, the parent and the young person are able to appeal separately or jointly. Where they apply separately, the appeals **must** be heard together. Where an admission application is being rejected, admission authorities **must** inform parents of their right of appeal in the letter of rejection and **must not** comment on the likelihood of success. They are also required to establish independent panels to which parents can appeal against decisions to refuse admission to preferred schools. Admission authorities **must** ensure that appeals made during the timetabled admissions process are heard within 30 school days of the specified closing date for the receipt of appeals. Appeal hearings for appeals made outside the timetabled admissions process **must** be held within 30 school days of the appeal being received in writing. During the summer holidays admission authorities **must** arrange their appeals within 30 working days of the appeal being received in writing. (See paragraph 4.8 of the School Admission Appeals Code.)

3.32 The Education (Admission Appeals Arrangements) (Wales) Regulations 2005 set out the constitution of admission appeal panels. The School Admission Appeals Code imposes mandatory requirements and provides guidelines on how panels should be set up and how they should conduct their hearings.

3.33 Admission authorities **must** admit a child whose parents have won an appeal. If the admission authority wants to challenge the decision of the appeal panel, it may seek judicial review. The Welsh Assembly Government has no jurisdiction over the decisions of appeal panels.

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<sup>18</sup> Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2009 - these arrangements apply from 2010/11 onwards.

## Withdrawing offers of places

3.34 Once an admission authority has made an offer of a school place, it may only lawfully withdraw that offer in very limited circumstances. These may include when the admission authority offered the place on the basis of a fraudulent or intentionally misleading application from a parent or young person (for example, a false claim to residence in a catchment area) which effectively denied a place to a child with a stronger claim or where a place was offered by the LA rather than by the admission authority in error. If a parent has not responded to the offer of a place within a reasonable time (such as 21 days), and the admission authority is considering withdrawing a place, they **should** remind the parent or young person of the need to respond and point out that the place may be withdrawn if they do not.

3.35 A school place **must not** be withdrawn once a child or young person has started at the school, except where that place was fraudulently obtained. In deciding whether to withdraw the place, the length of time that the child had been at the school **must** be taken into account. Where a place is withdrawn on the basis of misleading information, the application **must** be considered afresh, and a right of appeal offered if a place is refused.

## Duty of a governing body to implement the decision of an admission authority

3.36 Under section 88(1A) of the 1998 Act (as inserted by section 42 of the 2006 Act) it is the duty of a governing body of a community or voluntary controlled school, for which a LA is the admissions authority, to implement any decision taken by the admission authority relating to the admission of pupils.

## LA power of direction

3.37 A LA may direct the governing body for a maintained school for which it is **not** the admission authority to admit any child in their area where the child has been refused admission to, and/or is permanently excluded from, each school which is a reasonable

distance from his/her home and provides suitable education, except where the child has been permanently excluded from that school<sup>19</sup>.

3.38 Before giving a direction the LA **must** consult the governing body for the school they propose to specify in the direction. If following the consultation, the LA decides to issue the direction it **must** first serve a notice in writing of its decision on the governing body and head. The governing body may, within a period of 15 days on which the notice was served, refer the matter to the Welsh Ministers informing the LA that they have done so. If the matter is not referred and the direction is issued, the governing body **must** admit the child to the school.

## Other information relevant to school admission arrangements

### *Infant class size limit*

3.39 Statutory limits on class sizes provide that when only one qualified teacher<sup>20</sup> is present, and subject to certain limited exceptions (see below), infant classes (reception, year 1 and year 2) may not contain more than 30 pupils<sup>21</sup>.

3.40 An admission authority can refuse to admit a child to a school where to do so would cause class size prejudice, that is to say, prejudice to efficient education or efficient use of resources as a result of the measures that would be needed to comply with the duty to limit the size of infant classes. However, in relation to the reception year such prejudice can not be said to arise unless the schools admission number would be exceeded. In relation to years 1 and 2 admission authorities **should not** normally refuse admission on the grounds of class size prejudice unless the school's admission number would be exceeded.

3.41 Where certain types of children ("excepted pupils") cannot be provided with education at the school in another infant class in which the limit is not exceeded without measures being taken which

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<sup>19</sup> Section 96 of the 1998 Act as amended by paragraph 10 of Schedule 4 to the Education Act 2002.

<sup>20</sup> A person qualified under the Education (School Teachers Qualifications) (Wales) Regulations 2004.

<sup>21</sup> Section 1 of the 1998 Act and the Education (Infant Class Sizes) (Wales) Regulations 1998 as amended by the Education (Infant Class Sizes) (Wales) (Amendment) Regulations 2009.

would prejudice efficient education or the efficient use of resources, those children are not to be counted for the purpose of ascertaining whether or not the limit of 30 is exceeded. The children are:

- i. Children whose statements of SEN specify that they should be educated at the school concerned, and who are admitted to the school outside a normal admission round;
- ii. Looked after children admitted outside the normal admissions round;
- iii. Children initially refused admission to a school, but subsequently offered a place outside a normal admission round by direction of an admission appeal panel, or because the person responsible for making the original decision recognises that an error was made in implementing the school's admission arrangements;
- iv. Children who cannot gain a place at any other suitable school within a reasonable distance of their home because they move into the area outside a normal admission round;
- v. Children for whom education at a school which is Welsh speaking is desired where the school concerned is the only such school within a reasonable distance of their home;
- vi. Children for whom education at a school with a designated religious character is desired where the school concerned is the only such school within a reasonable distance of their home;
- vii. Pupils admitted to the school within an age group in which children are normally admitted and
  - admitted after the first day of the relevant school year; and
  - where the school has not yet reached its admission number but has already organised its classes; and
  - where admission of the child would mean that the school would have to take a relevant measure;
- viii. Children who are registered pupils at special schools, but who receive part of their education at a mainstream school; and

- ix. Children with SEN who are normally educated in a special unit in a mainstream school, but who receive some of their lessons in a non-special class.

3.42 In the first seven of these categories, the class may only be above 30 for that school year or the remainder of that school year. Qualifying measures **must** be taken for the following year, or the class will be unlawfully large.

### ***Children with statements of SEN***

3.43 In general, the admission of children with statements of SEN is covered by sections 312 to 349 of, and Schedules 26 and 27 to, the Education Act 1996. Guidance on the admission of children with statements is provided in the Special Educational Needs Code of Practice for Wales. Consequently the admissions provisions in the 1998 Act do not generally apply to children with statements of SEN. Section 324 of the Education Act 1996 requires a maintained school that is named in a statement of SEN to admit the child. Schools cannot refuse to admit even if by doing so they would exceed their admission number.

3.44 If a LA has provided a statement for a child with SEN it is responsible for ensuring that the special educational provision is made for the child. The LA may identify a particular school which it considers to be suitable for the child's needs, and name the school in the statement. If the parent of a child with a statement of SEN wishes to appeal against the school named in the statement, or the fact that no school has been named, the appeal is to the Special Educational Needs and Disability Tribunal for Wales, not to the admission appeal panel.

### ***Children with SEN without statements***

3.45 Children with SEN but without statements **must** be treated as fairly as other applicants. Admission authorities **must not** refuse to admit a child because they consider themselves unable to cater for his or her SEN. Admission authorities **must** consider applications from children who have SEN but no statement, on the basis of the school's published admission criteria. They **must not** refuse to admit

a child on the grounds that he or she does not have a statement of SEN, or is currently being assessed for one. Where admission authorities give some priority to children with special, medical or social needs etc but without a statement, their published admission arrangements **should** explain what evidence of need is required to qualify under the criterion.

### ***Children with disabilities***

3.46 Children have rights under the Disability Discrimination Act 1995 and schools must not discriminate (without justification) against disabled pupils and prospective pupils. A child has a disability if he or she has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. The definition under this Act is broad. It includes a wide range of impairments including learning difficulties, dyslexia, diabetes or epilepsy as well as those with physical or sensory impairments.

3.47 Under the Disability Discrimination Act 1995 admission authorities have a duty not to discriminate against disabled children and prospective pupils in their access to education. Admission authorities **must not** discriminate against a disabled child: a) in the arrangements they make for determining pupil admission to the school; or b) in the terms on which they offer to admit a disabled child to the school; or c) by refusing or deliberately omitting to accept an application for admission. The Disability Equality Duty was introduced under the Disability Discrimination Act in 2005, schools **must** take a fully comprehensive approach in promoting disability equality. The new duty is anticipatory and applies in respect of potential pupils so schools **must** think ahead, anticipate barriers to disabled pupils and remove or minimise them.

3.48 Under the Disability Discrimination Act 1995 schools **must** publish accessibility plans showing how they are increasing access for disabled pupils to the premises, the curriculum and written information. Schools must also publish a Disability Equality Scheme showing how the school is promoting disability equality. Some schools may choose to combine these two publications.

3.49 Schools **should** provide information to parents and prospective parents about the reasonable adjustments they have in place for disabled pupils and about the accessibility of the school to disabled pupils to show they welcome applications from parents of disabled children.

3.50 It is vital that when a school knows that a pupil with disabilities is to be admitted, they make every effort to find out about their needs and disabilities so that they can plan the provision to be made, including any reasonable adjustments that may need to be made under the Disability Discrimination Act 1995. However, as mentioned above a school **must** be proactive and anticipate barriers for potential pupils of the school.

3.51 The Disability Rights Commission Code of Practice provides practical guidance on the duties owed to disabled children and it can also be accessed on the Equality and Human Rights Commission's website at [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Welsh Assembly Government has also issued guidance for heads and teachers in Wales entitled 'Promoting Disability Equality in Schools'. All LAs and schools in Wales have been sent a copy and it can also be accessed on the Welsh Assembly Government's website at [www.wales.gov.uk](http://www.wales.gov.uk).

### ***Children with challenging behaviour***

3.52 Admission authorities **should not** refuse to admit a child on the basis of their behaviour elsewhere. Schools **should not** refuse to admit a child thought to be potentially disruptive, or to exhibit challenging behaviour, on the grounds that the child ought first to be assessed for SEN. The law disapples the normal principle that parents' preferences should be complied with, only in the 'twice excluded' situation described in paragraph 3.54. If following admission, a child is found to be seriously and persistently disruptive, then the school may consider disciplinary action, including temporary and, ultimately, permanent exclusion procedures. However it is important to note that children with challenging behaviour may be disabled as defined in the Disability Discrimination Act 1995 and therefore require reasonable adjustments to be made for them in

the school or require SEN support. The school **must** be proactive in promoting disability equality in relation to these pupils, as with all disabled pupils.

3.53 Some undersubscribed schools may find that they have been required to admit an undue proportion of children with a recent history of challenging behaviour, which may have led to a permanent exclusion from another school. Admission forums **should** discuss how local admission arrangements might allow all schools to admit a more even share of such children, including children excluded from other schools, and to agree protocols for the admission of hard to place children. Admission authorities **must** have regard to their admission forum's advice.

### ***Twice excluded pupils***

3.54 Where a child has been permanently excluded from two or more schools, his/her parents can still express a preference for a school place, but the requirement to comply with that preference is removed for a period of two years from the date on which the latest exclusion took place<sup>22</sup>.

This does not apply to:

- children with statements of SEN;
- children who were below compulsory school age when excluded;
- children who were reinstated following a permanent exclusion;
- children who would have been reinstated following a permanent exclusion had it been practicable to do so; and
- looked after children, where the application for admission is made by or on behalf of the corporate parent.

3.55 A permanent exclusion is regarded as taking effect from the first school day the head has told the child not to attend school.

3.56 The admission authority for the school may refuse admission, or in the case of a community or voluntary controlled school, the governing body may appeal against the decision of the LA as the admission authority to admit the child (see the School Admission Appeals Code for information on these appeals). LAs are

still responsible for providing suitable full-time education for these children and may need to use their powers of direction or provide a place in a Pupil Referral Unit.

### ***Hard to place children***

3.57 All admission authorities **should** have protocols in place for admitting children they consider hard to place. All need to play their part in ensuring that these children, especially the most vulnerable, are admitted to a suitable school as quickly as possible. This includes admitting children to schools that are already full.

3.58 There is a balance to be struck between finding a place quickly in an undersubscribed school or one facing challenging circumstances and finding a school place that is appropriate for the child. The protocol **should** therefore ensure that no school, including those with places available, is asked to take an excessive or unreasonable number of children who have been excluded from other schools.

3.59 Protocols may include all children who arrive outside the normal admissions round who may have difficulty securing a place. Admission authorities should make reference to the guidance provided at paragraph 3.19 to 3.20 in relation to Gypsy and Traveller children. Children with SEN but without statements **should** be treated in the same way as all applicants, but protocols **should** include arrangements for ensuring that, where there is prior knowledge of a need for particular SEN support, such children are placed quickly.

3.60 Once these protocols have been agreed, admission forums **should** monitor how well they are working, how quickly the children are found places, and the contribution every school in the area is making.

### ***Children of UK Service personnel and other Crown servants (including Diplomats)***

3.61 Families of UK Service personnel and other Crown Servants<sup>23</sup> are subject to frequent movement within the UK and from abroad, often at relatively short notice. School places **should** be allocated to children and their families in advance of the approaching school year if accompanied by an official Ministry of Defence (MOD) or Foreign and Commonwealth Office (FCO) letter declaring a return date.

3.62 Admission authorities **must**:

- ensure that the needs of the children of these families are taken into account;
- allocate a school place in advance, if the applicant would meet the criteria when they move to their destination;
- invite a Service representative or representatives of other significant concentrations of Crown servants to join the admission forum; and
- accept a Unit postal address for applications from service personnel in the absence of a new home postal address.

3.63 Admission authorities **must not**:

- reserve places for blocks of these children, or
- refuse a place to such a child because the family does not currently live in the LA area.

### ***Children from overseas***

3.64 Children from overseas who are lawfully resident in the UK, whether they are accompanied or unaccompanied by parents, have the same rights to education as British Citizen children and applications for admission to maintained schools made on their behalf **must** be treated in the same way. Furthermore, where such children are of compulsory school age they **must** attend school unless suitable alternative arrangements have been made for them. Such children include:

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<sup>23</sup> A Crown Servant is an officer of the United Kingdom Government.

- European Economic Area (EEA) nationals (where the provisions of the Immigration (European Economic Area) Regulations 2006 are satisfied);
- Those from countries whose passports have been endorsed to show they have the right of abode in the UK;
- Refugees and asylum seekers with claims pending (i.e. a claim has been made for asylum which has been recorded by the Secretary of State but which has not yet been determined); and
- Others whose parents who have limited leave to enter or remain in the UK (including the children of non EEA migrant, or who are taking part in a teacher exchange scheme (see paragraphs 3.67 and 3.68)).

3.65 Non-EEA children who apply for leave to enter or remain in the UK to study on their own will only be granted leave to enter or remain if the child satisfies the requirements specified in paragraph 57 of the Immigration Rules<sup>24</sup>. If the child is under 16 years old, he or she must produce proof of acceptance for a course of study at an independent fee-paying school outside the maintained sector or a bona fide private educational institution. The child will not be allowed to enter to attend a maintained school, except as part of an exchange programme. If such a child is found to attend a maintained school they will infringe the conditions of their leave to enter and action could be taken against them by the Immigration and Nationality Directorate of the Home Office.

3.66 However, whilst non-EEA overseas children are not, in general, admitted to this country to attend maintained schools, these children can be admitted to attend a maintained school under the auspices of a student exchange scheme, or if they are participants in the European Union (EU) Lifelong Learning Programme. A student participating in such schemes will not be permitted to stay in this country for more than one year. Such schemes **must** include a genuine exchange of pupils between partner schools at the same time or a later date and **should not** involve fees, if they are not part of the EU programme. Where a child on roll at a UK maintained school participates in a student exchange scheme that child **should**

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<sup>24</sup> The Immigration Rules can be viewed on [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk).

remain on roll for the duration of the exchange and be treated as on an “approved educational activity”.

### ***Teacher exchange schemes***

3.67 Where a child goes abroad to accompany his or her parent on a teacher exchange scheme, the school **should** ensure that the child is able to take up his or her place on return. The child **should** remain on roll and time away may be treated as an “approved educational activity”.

3.68 The LA has a duty to find a place for a child who will become resident in their area as a result of his or her parent’s participation in a teacher exchange scheme. LAs **should** plan in advance for the needs of these children to ensure that they can take up a suitable school place for the duration of the exchange, wherever this is practicable.

### ***Transfers from the independent sector***

3.69 As noted above, lone children may be admitted to the UK if they can show that they have a place at an independent, fee-paying school. Where a child has been given leave to enter on that basis, the Home Office will not normally grant an extension of stay, or amend the child’s conditions of entry, if the child transfers to a community, voluntary or foundation school. LAs and governing bodies may wish to bear this in mind when considering a request for a transfer in respect of a child from overseas who has been previously attending a fee-paying school.

### ***Applications made in the UK for children living abroad***

3.70 Admission authorities may receive an application from parents overseas for a school place for a child who is not yet resident in the UK. The admission authority will not necessarily know when the child is expected to be resident in the UK, or whether the parents’ application for leave to enter the UK has been or will be successful, or if it has been, on what terms entry has been granted. These are all considerations that an admission authority may reasonably wish to take into account when considering the application.

### ***School uniform***

3.71 School uniform plays a valuable role in contributing to the ethos and setting the tone of a school, and the Welsh Assembly Government strongly encourages schools to consider the introduction of uniforms where they do not already have them. However, the Welsh Assembly Government also recognises that school uniform and other items that are required to be purchased in accordance with a school uniform policy can be a financial burden, particularly for low income and large families.

3.72 Therefore, when introducing new uniform and/or considering changes to existing school uniform requirements, the Welsh Assembly Government expects governing bodies to give high priority to the cost considerations. Governing bodies should help limit the expense of uniforms so that parents on low incomes do not feel that the prospective cost of the uniform means that they cannot apply for their preferred school. This applies equally to sports kits and any other specialist equipment outlined in the policy<sup>25</sup>.

### ***Learner travel***

3.73 The Learner Travel (Wales) Measure 2008 sets out specific requirements for home to school transport in Wales. It provides from September 2009 a level of entitlement to free transport for all primary school children by setting a threshold of two miles or further from home to the nearest suitable school, and a threshold of 3 miles for secondary school pupils. Parents should be made aware in the composite admissions prospectus that if the parents preferred school is not the nearest suitable school, the pupil generally does not have a right to free school transport even if they live beyond walking distance. In such cases, parents are responsible for making their own transport arrangements, although an authority has discretion to provide free or assisted transport for such pupils. If a child cannot be admitted to the nearest suitable school, and as a result has to attend a school beyond the walking distance from their home, then the local authority is under a duty to provide free home to school transport to the next nearest suitable school.

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<sup>25</sup> Guidance for Governing Bodies on School Uniform and Appearance Policies - Welsh Assembly Government Circular No: 006/2008

## Annex A - Boarding Schools

A.1 There is currently only one maintained boarding school in Wales. This Annex applies specifically to that school and sets out the framework within which admissions to boarding places at the school should be made.

### Admission procedures

A.2 As maintained schools, boarding schools **must** adopt a set of published admission criteria for both day and boarding places which comply with education and equality legislation and with the provisions of this Code.

A.3 Boarding schools may adopt separate admission numbers and, if they wish, separate oversubscription criteria for day and boarding places.

A.4 Where there are more applicants who are suitable to board than there are boarding places available, the school **must** apply the oversubscription criteria set out in its published admission arrangements. These criteria **must** be set in accordance with the provisions of this Code and legal requirements and **must not** amount to any form of selection by aptitude or ability, except where otherwise permitted. The oversubscription criteria **must not** include criteria for deciding which pupils are most suitable to board. Interviews and any other information used to judge suitability **must not** be used to determine admission to day places. Setting fair, clear and objective admission criteria should ensure that admission authorities can clearly demonstrate to parents and carers how places have been allocated.

### Boarding need

A.5 Boarding schools have an important role in providing places for the most vulnerable children and in providing a stable educational environment for those whose parents have jobs or careers which dictate that they often have to work outside the country. Boarding schools **must** therefore, after giving the required priority to looked after children, give next priority in their oversubscription criteria for boarding places to 'children with a boarding need'. Boarding schools

**must** ensure that it is clear to parents what is meant by 'boarding need'.

A.6 Although this is not a comprehensive list, children with a boarding need include:

- i. children at risk;
- ii. children from single parent families;
- iii. children with an unstable home environment;
- iv. children of members of the British forces overseas;
- v. children of key workers working abroad (e.g. the children of charity workers, people working for voluntary service organisations, the diplomatic service or the European Union, teachers, law enforcement officers and medical staff working abroad) whose work dictates that they spend much of the year overseas.

A.7 Those children described at paragraph A.6 (i) to (iii) **should** be given priority regardless of their normal place of residence, and children described in paragraph A.6 (iv) and (v) **should** be given priority when the normal place of residence is based in the locality or priority area of the school.

### **Suitability for boarding**

A.8 A maintained boarding school is entitled to consider an applicant's suitability for boarding before deciding whether to award a boarding place.

A.9 In order to determine the suitability of an applicant to board, the school may have regard to:

- The outcome of an interview with the applicant carried out for that sole purpose.
- Information provided by the applicant's parent, corporate parent, or guardian, on a supplementary application form provided for the same purpose.

- Information provided by the applicant's current school or - if he or she is currently out of school - previous school, requested and provided for the same purpose.
- Information provided by the home LA on safeguarding issues.

A.10 An 'interview' in this context means face-to-face or telephone interviews or meetings with the candidate used to determine suitability for boarding. The general prohibition on interviewing as part of the admissions process does not apply to such interviews.

A.11 Boarding schools **must not** use any other processes to determine suitability. They **must not** ask for or consider information on religious background (unless this is relevant to assessment against published admission arrangements), home circumstances, academic ability, sporting or artistic ability, academic interests or other extraneous matters such as low level misbehaviour. If any such information is provided it **must** be disregarded.

A.12 There is no requirement for admission authorities to use interviews and supplementary application forms to assess suitability, but where they do, they **must** take account of the guidelines contained in this Code.

A.13 Suitability for boarding **must not** be adopted as an oversubscription criterion. Schools with boarding places **must** determine their oversubscription criteria in accordance with the mandatory provisions and guidelines set out in Chapter 2 of this Code. Published admission arrangements **must** state that the school will additionally carry out a process to establish suitability for boarding which will involve an interview and/or using supplementary application forms (if the boarding school decides it wishes to use interviews and supplementary application forms).

## Definition of suitability

A.14 Suitability does not refer to those children who best fit the school's ethos. Suitability refers to:

- whether a child presents a serious health and safety hazard to other boarders, or
- whether a child is developmentally suited to a boarding place.

A.15 For boarding places, the admission authorities are entitled to take the view that a history of major behavioural difficulties such as sexual misconduct, arson or extreme physical violence is likely to render an applicant unsuitable to board. Low level misbehaviour would not do so.

## Preparing for and conducting an interview

A.16 In preparing for and conducting interviews for boarding places schools must:

- Focus purely on whether the applicant would be able to cope with and benefit from a boarding environment;
- Be fair and open. Children and parents **must** be informed of the process in advance, and know what to expect from the interview; and
- Give children a chance to state separately from their parents whether they wish to board.

A.17 It is good practice to brief applicants and their parents carefully about the purpose and structure of the interview beforehand. Applicants **should** be put at their ease during the interview, and interviewers **must** make every reasonable effort to accommodate the needs of those with special needs or a disability (e.g. hearing impairment or speech difficulty). In some circumstances, it may be necessary for interviews to be conducted through an interpreter.

A.18 Admission authorities **must not**:

- Require or request children to sit any form of written or verbal test of knowledge, ability or attitudes.
- Seek to screen out pupils who have a record of low level poor discipline which has not resulted in them being twice permanently excluded. This prohibition includes asking questions which seek to ascertain whether applicants' reactions to conflict situations are conciliatory or confrontational.
- Seek to screen out pupils who are not as outgoing or confident as others, or as eloquent.
- Seek information about parental background, finances, marital status or religion.
- Seek information about home circumstances.
- Seek to obtain information about low level misbehaviour, absenteeism, academic ability, sporting, artistic or any other form of achievement or ability; or
- Ask questions about whether applicants know any existing boarders.

A.19 If an admission authority determines that an applicant is not suitable for boarding, it **must** inform the parents in writing of the reasons for the determination and, as with other refusals of admission (i.e. for a day place), the right of appeal and who to contact to lodge an appeal.

## Annex B - Admission Forums

B.1 Admission forums have a key role in ensuring a fair admissions system that does not disadvantage one child compared with another and is straightforward and easy for parents to understand. Forums are responsible for monitoring compliance with this Code and where they consider admission arrangements to be unfair or not in accordance with this Code and cannot resolve the matter locally they may refer the matter to the Welsh Ministers for consideration. These guidelines should be read in conjunction with the Education (Admission Forums) (Wales) Regulations 2003.

### Legal requirement

B.2 Section 85A of the 1998 Act (inserted by section 46 of the Education Act 2002) requires all LAs to establish an admission forum. Admission forums provide a vehicle for admission authorities and other key interested parties to discuss the effectiveness of local admission arrangements, consider how to deal with difficult admission issues and advise admission authorities on ways in which their arrangements can be improved. Admission authorities of all maintained schools, when exercising their functions, **must** have regard to any advice offered by the forum. LAs may establish a joint forum with one or more other LAs to consider and advise on admissions in more than one authority area.

### Role of admission forums

B.3 Admission forums have a key role in ensuring a fair admissions system that promotes social equity and **must** under section 84 of the 1998 Act, act in accordance with this Code. The role of admission forums is set out in Regulations<sup>26</sup>. Admission forums **must**:

- Consider how well existing and proposed admission arrangements serve the interests of children and parents within the area of the LA;
- Promote agreement on admission issues;
- Consider the comprehensiveness and accessibility of the admissions literature and information produced for parents by each admission authority within the area of the forum;

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<sup>26</sup> The Education (Admission Forums) (Wales) Regulations 2003.

- Consider the effectiveness of the LAs proposed co-ordinated admission arrangements;
- Consider the means by which admissions processes might be improved and how actual admissions relate to the admission numbers published;
- Monitor the admission of children who arrive in the LA's area outside a normal admission round with a view to promoting arrangements for the fair distribution of such children among local schools, taking account of any preference expressed in accordance with arrangements made under section 86(1) of the 1998 Act and in accordance with this Code;
- Promote the arrangements for children with SEN, children in care and children who have been excluded from school;
- Consider any other admissions issues that arise.

B.4 Admission forums should consider appropriate application and offer dates for all primary and secondary school admissions within their area in consultation with neighbouring authorities as appropriate.

### **Ensuring fair access**

B.5 In discharging these responsibilities, admission forums **must**:

- Review the comprehensiveness, effectiveness and accessibility of advice and guidance for parents by the LAs and schools through the published composite prospectus (see paragraph 2.12);
- Agree procedures for ensuring that potentially vulnerable children and those who arrive in the area outside the normal admissions round are placed in a school as quickly as possible. Vulnerable children include those previously excluded from school, children in care, young offenders, children with ALN and/or disabilities, Gypsy and Traveller children, or those who are hard to place, or have challenging behaviour. Managed transfers of such children should be handled as quickly and sensitively as possible. The forum should ensure that all admission authorities in the area are aware of the agreed procedures and should monitor to ensure that they are working effectively.

- Monitor compliance with the School Admissions, and School Admission Appeals Codes and related legislation.

## **Reports on effectiveness of local admission arrangements**

B.6 Admission forums must provide a summary annual report which **should** be made public (with due consideration for confidential references to pupils) and include the following information in the format set out at Annex C:

- membership of forum;
- dates of meetings held during the year;
- number of attendees;
- number of parental preferences that were met;
- number of admission appeals made for schools in the area (including information on how many were successful and unsuccessful);
- ethnic and social mix of pupils attending schools in the area, including Gypsy and Traveller children;
- what admission arrangements have been put in place to serve the interests of vulnerable children;
- how well in-year agreed admission procedures are working and the number of children admitted to each school under the procedures; and
- a short summary of the key admission issues in the area and how the forum has addressed them.

B.7 Such reports are a valuable tool in ensuring an open and fair admission system as admission authorities **must** have regard to any advice published by the admission forum. A copy of the report **should** be sent by 30 November each year to Schools Management and Effectiveness Division of the Welsh Assembly Government, and be distributed to those with a vested interest in ensuring the needs of vulnerable children are met.

## Membership

B.8 The core membership of admission forums is set out in Regulations and is shown in the table below:

Members nominated by	Number
LA - any member or officer of the authority	1 to 5
Church in Wales Diocesan representatives	1 to 3
Roman Catholic Diocesan representatives	1 to 3
Schools - community and voluntary controlled	1 to 3
Schools - foundation	1 to 3
Schools - voluntary aided	1 to 3
Parent governor representatives	1 to 3
Representatives of the local community	up to 3

B.9 Each representative of a school **should** be a head, or a governor (other than one appointed to the school by the LA who is also a member of the authority). Admission forums **should** include representatives of neighbouring LAs where, for example, there are significant cross-border issues or they have a contribution to make. These representatives would be in addition to those of the home LA.

B.10 The core membership of each forum may ask the LA to appoint anyone it considers appropriate to represent significant interests in the local community. For instance, in areas where there is a significant concentration of service personnel the forum **should** invite a UK service representative and where appropriate, representatives from faith groups not already represented, and minority ethnic groups **should** be appointed.

B.11 If the forum considers that it would be useful to appoint additional members to represent the interests of any section of the local community the LA **should** appoint such members. For example, where the forum is considering issues relating to the admission of looked after children, it **should** ask the LA to appoint LA officers with expertise in children's social care. Where there is a particular issue that needs investigation and more detailed consideration LAs **should** create a working group (which does not need to consist of forum members) to carry out this work and report-back to the forum.

## **Tenure**

B.12 Core members and school members of the forum are appointed for a period not exceeding 4 years, after which they are eligible for reappointment. Other members of the forum are appointed on the terms determined by the core members, including whether or not they are to be eligible for reappointment at the end of their term. Membership of the forum **should** be reviewed in September each year. If a school member ceases to be a head or school governor, they cannot continue on the forum in that capacity.

B.13 The LA may also establish sub-committees to help the forum in the performance of its functions. Sub-committees might be appropriate for considering primary and secondary issues separately, or, if the relevant area is large and has areas with distinct admissions patterns, separate sub-committees might consider issues in each area, before bringing them back to the main forum for discussion.

## **Procedure for meetings and appointment of officers**

B.14 Regulations require forums to meet at least twice a year, but the procedure for the meetings is regulated by the core members themselves. All members of the forum **should** be given at least 7 working days notice of the time and date of the meeting and be given any documents relevant to that meeting 7 days in advance. The forum **must** appoint a Chair and Vice Chair, who may or may not be members of the forum, and a Secretary to convene its meetings.

## Promulgating advice and making objections

B.15 Admission forums **should** seek to achieve a consensus among the whole membership rather than secure a majority opinion and **should** only promulgate advice that represents the agreed views of the forum as a whole.

B.16 The LA **must**, as a minimum, publish the forum's advice on the school admissions section of their website and send copies to all admission authorities in the area. The advice **should** also be included in the composite prospectus published by the LA each year for parents.

## Annex C - Admission Forum Annual Report

Please return the completed report by 30 November each year to:

Schools Management and Effectiveness Division  
 Department for Children, Education, Lifelong Learning and Skills  
 Welsh Assembly Government  
 Third Floor, Cathays Park  
 Cardiff, CF10 3NQ

SchoolsManagementDivision3@wales.gsi.gov.uk

Name, address and contact details for admission authority:

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Secretary to the forum: \_\_\_\_\_

### Membership and attendance of the forum

Name	Position	Time in attendance
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

### Meeting dates and attendance

	Date	Number in attendance
First meeting		
Second meeting		

Please outline what admission arrangements have been put in place to serve the interests of vulnerable children

Please explain how well in-year agreed admission procedures are working and the number of children admitted to each school under the procedures

Please provide a summary of the key admission issues in the area and how the forum has addressed them



## Annex D - Other Relevant Legislation

D.1 Below is set out the primary legislation most relevant to admissions decisions. Admission authorities, adjudicators, appeal panels, LAs and schools **must** comply with the relevant law as well as acting in accordance with the provisions of this Code and following its guidelines. The information here aims to signpost the relevant law; it does not aim to provide definitive guidance on interpreting the law: that is for the courts.

### Sex Discrimination Act

D.2 Under the Sex Discrimination Act 1975, admission authorities **must not** discriminate between boys and girls in the way they admit them to a school except where the school in question is a single sex school. Admission arrangements for a co-educational school **must not** be used to achieve a fixed proportion of boys or girls at the school, as this may breach the Act, which requires that at any time a female applicant has the same chance of success as a male applicant, and vice versa.

### Race Relations Act

D.3 The Race Relations Act 1976 makes it unlawful for admission authorities to discriminate against applicants on the basis of race, colour, nationality or national or ethnic origin. That Act, as amended by the Race Relations (Amendment) Act 2000, imposes on public bodies, including LAs and schools, a duty to promote racial equality. They **must** have regard to the need to eliminate unlawful racial discrimination; promote equality of opportunity; and promote good relations between people of different racial groups. The governing bodies of schools have specific duties under Articles 3(1), 3(2), 3(3), and 3(5) of the Race Relations Act 1976 (Statutory Duties) Order 2001. Governing bodies **should** have a written statement of their policy for promoting race equality. LAs **must** also publish a race equality scheme, which includes similar duties to assess and monitor the effects of their policies, including monitoring admissions to schools. LAs are encouraged to use any co-ordinated scheme for allocating school places, for this monitoring purpose.

## Human Rights Act

D.4 The Human Rights Act 1998 confers a right of access to education. This right does not extend to securing a place at a particular school. Admission authorities, however, do need to consider parents' reasons for expressing a preference when they make decisions about the allocation of school places, to take account of the rights of parents under the Act, though this may not necessarily result in the allocation of a place. These might include, for example, the parents' right to ensure that their child's education conforms to their own religious or philosophical convictions (as far as is compatible with the provision of efficient instruction and the avoidance of unreasonable public expenditure).

## Disability Discrimination Acts 1995 and 2005

D.5 Under the Disability Discrimination Act 1995 admission authorities have a duty not to discriminate against disabled children and prospective pupils in their access to education. Three distinct aspects of admission are specifically covered by the legislation. Admission authorities **must not** discriminate against a disabled child:

- In the arrangements they make for determining pupil admission to the school; or
- In the terms on which they offer to admit a disabled child to the school; and
- By refusing or deliberately omitting to accept an application for admission.

D.6 Further guidance on this is given in the Disability Rights Commission Code of Practice.

D.7 Under the Disability Discrimination Act 2005 public authorities, including schools and LAs, have a duty when carrying out their functions to have due regard to the need to:

- promote equality of opportunity for disabled people;
- eliminate unlawful discrimination;
- eliminate disability related harassment;
- promote positive attitudes towards disabled people;

- encourage disabled people's participation in public life; and
- take account of disabled people's disabilities even where that involves more favourable treatment.

D.8 LAs and schools **must** produce and publish a Disability Equality Scheme showing how they are going to comply with the general duty to promote equality of opportunity for disabled pupils, staff and those for whom they provide services. They are also required to produce an annual report on the progress made in implementing the action plan included in the scheme, the effect of this progress, but also the action they still may need to take. The duty applies to all publicly funded schools and LAs from April 2007. The Disability Equality Scheme covers all the activities of an LA or school and is therefore relevant to admissions.

### **Equality Act 2006**

D.9 Section 49 of the Equality Act 2006 sets out provisions in relation to schools. It provides that the use of faith-based oversubscription criteria is only permitted for those schools designated as schools with a religious character. It is unlawful for any other school to include such criteria in deciding admissions. Guidelines on acceptable faith-based oversubscription criteria can be found in paragraphs 2.39 to 2.41 of this Code.

## Annex E - Model Application Form

**This is a model application form and should be amended to reflect the needs of the admission authority.**

### **Name and address of Admissions Authority**

**Application for admission to [Infant/Junior/Primary/Secondary] school** (NB: Separate forms should be made available for each relevant year of entry.)

*Please read this form carefully and complete it as fully as possible. The information you give will be used to allocate a school place to your child.*

1. Child's full name [1]

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2. Child's date of birth

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3. Child's sex M/F

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4. Child's place of residence, including postcode [2]

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5. Parent's name/s [3]

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6. Parent's address and telephone number

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*Please telephone [name of person] on [tel. no.] for information on your catchment area, English and Welsh medium schools and Roman Catholic and Church in Wales schools. [4]*

7. Please indicate below your preferred school/s (in order of preference); you may express more than one preference and give a reason for your preference/s. [5]

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

*Expressing a preference does not guarantee admission to your chosen school but it will give your child priority over children whose parents have **not** expressed a preference for that school. If you do not express a preference, or you submit this form late it will be less likely that your child will be able to attend the school of your choice.*

8. Is the child a Looked After Child? Yes/No. If yes, please also state the corporate parent. [6]

\_\_\_\_\_

9. Does the child hold a statement of SEN which names a school? Yes/No. If yes, which school is named? [7]

\_\_\_\_\_

10. Please give the names and dates of birth of the child's siblings who are already attending the preferred school/s. [8]

Name \_\_\_\_\_ DOB \_\_\_\_\_ School \_\_\_\_\_

Name \_\_\_\_\_ DOB \_\_\_\_\_ School \_\_\_\_\_

11. Please give the name of the child's current infant/junior/primary school. [9]

\_\_\_\_\_

12. Please indicate your child's special medical circumstances, if any. [10]

\_\_\_\_\_

13. Has the child been baptised? Yes/No. If, yes, please submit a copy of the baptismal certificate with this form. [11]

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14. Is the child/Are the child's parents communicant members of X Church? Yes/No. If yes, please submit with this form a supporting statement from the priest/minister or other Church representative. [12]

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*If the number of applications to your preferred school is fewer than or equal to the number of places available, **all** applicants will be admitted. **However**, if the number of applications to your preferred school is greater than the number of places available, the information you give below will be used to rank your child's priority for a place in line with the oversubscription criteria which are:*

[List of oversubscription criteria.]

*If your application to your preferred school is unsuccessful, we will consider your second preference for your child.*

**This form must be returned to [name] at [address] by [date].  
[13] Applications received by this date will be considered together and places allocated.**

**Signed** \_\_\_\_\_ **Parent**

**Date** \_\_\_\_\_

## Notes

1. It is not appropriate to ask for "Christian" name since not all applicants may be Christian.
2. Where necessary the authority may wish to indicate that proof of residency may be required.
3. In relation to a young person or child, the term 'Parent' includes any person who is not a parent but who has parental responsibility or care of the child.
4. Insert the name and telephone number of a person who holds information on catchment area English/Welsh/denominational schools.
5. You may not limit the number of preferences a parent may express.
6. All applications made on behalf of Looked After Children must be approved by the relevant admission authority.
7. If a school is named in a statement of SEN, the admissions authority has a duty to admit the child to that school.
8. You may only ask for siblings' details where sibling links feature in your admissions arrangements' oversubscription criteria. You should clarify in your admissions arrangements how you intend to define 'siblings' e.g. full, half, step, adopted and fostered brothers and sisters. This criterion may not include relatives who previously attended the school.
9. You may only ask for the child's previous school where a feeder school system is in operation.
10. You may only ask this question if your oversubscription criteria give priority to children under medical circumstances.
11. You may only ask this question if your oversubscription criteria give priority to children baptised into the faith of the school.
12. You may only ask this question if your oversubscription criteria give priority to children who are themselves/whose parents are communicant members of the Church named.
13. Insert name and address of person responsible for receiving admission forms.

## Annex F - Related Documents

- Children Act 1989
- Designation of Schools Having a Religious Character (Wales) Order 2007
- Disability Discrimination Act 1995
- Disability Discrimination Act 2005
- Disability Rights Commission Code of Practice
- Education Act 1996
- Education Act 2002
- Education and Inspections Act 2006
- Education and Skills Act 2008
- Education (Admission Appeals Arrangements) (Wales) Regulations 2005
- Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2009
- Education (Admission of Looked After Children) (Wales) Regulations 2009
- Education (Admission Forums) (Wales) Regulations 2003
- Education (Determination of Admission Arrangements) (Wales) Regulations 2006
- Education (Infant Class Size) (Wales) (Amendment) Regulations 2009
- Education (Infant Class Size) (Wales) Regulations 1998
- Education (Objections to Admission Arrangements) (Wales) Regulations 2006
- Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999
- Education (School Information) (Wales) Regulations 2002
- Education (School Teachers Qualifications) (Wales) Regulations 2004
- Equality Act 2006
- Government of Maintained Schools (Wales) Regulations 2005
- Guidance for Governing Bodies on School Uniform and Appearance Policies - Welsh Assembly Government Circular No: 006/2008
- Human Rights Act 1998
- Immigration Rules

- Learner Travel (Wales) Measure 2008
- Measuring the Capacity of Schools in Wales
- Moving Forward - Gypsy Traveller Education
- New School (Admissions) (Wales) Regulations 2006
- Placement of Children (Wales) Regulations 2007
- Promoting Disability Equality in Schools
- Race Relations (Amendment) Act 2000
- Race Relations Act 1976
- Race Relations Act 1976 (Statutory Duties) Order 2001
- R v Rotherham Metropolitan Council ex parte Clark and others (1997) EWCA Civ 2768
- School Admission Appeals Code
- School Admission Appeals National Assembly for Wales Code of Practice
- School Admissions Welsh Office Code of Practice
- School Standards and Framework Act 1998
- Sex Discrimination Act 1975
- Special Educational Needs Code of Practice
- Towards a Stable Life and a Brighter Future

## Annex G - Commencement

Provision	Coming into force
Enabling young people to express a preference for sixth form education (paragraph 2.1).	In respect of admissions for the 2010/11 school year.
Common offer dates and common dates of return for application forms (paragraph 2.22).	In respect of admission arrangements for 2011/12.
Giving looked after children highest priority in published admission arrangements (paragraph 2.27). Note: other provisions relating to looked after children come into force immediately.	In respect of admission arrangements for 2010/11.
Revision of published admission arrangements where necessary in line with guidance in Chapter 2.	In respect of admission arrangements for 2011/12.

## Glossary

### **Admission arrangements**

The overall procedure, practices and oversubscription criteria used in deciding the allocation of school places.

### **Admission authority**

The body responsible for setting and applying a school's admission arrangements. For community or voluntary controlled schools, the LA is the admission authority; and for foundation or voluntary aided schools, the governing body of the school is the admission authority.

### **Admission forum**

A statutory local body charged with co-ordinating the effectiveness and equity of local admission arrangements. Consists of representatives of admission authorities and schools, dioceses, the local community and parent governors.

### **Admission number**

The number of school places that the admission authority **must** offer in each relevant age group of a school for which it is the admission authority. Admission numbers are part of a school's admission arrangements, and **must** be consulted upon with the rest of a school's admission arrangements and be published with those arrangements in the school's prospectus and the LA composite prospectus.

### **Banding**

A system of oversubscription criteria in which all children applying for a place at a banding school are placed into ability bands based on their performance in a test or other assessment. Places are then allocated so that the school's intake either reflects the ability profile of those children applying to the school, those children applying to a group of schools banding jointly, the LA ability profile or the national ability profile.

## **Catchment area**

A geographical area, from which children may be afforded priority for admission to a school. A catchment area is part of a school's admission arrangements and **must** therefore be consulted upon, determined and published in the same way as other admission arrangements. Voluntary aided schools may choose to define their catchment area as their parish boundary, this **must** be made clear.

## **Children in public care; Looked after children; Children in care**

Children who are in the care of LAs as defined by section 22 of the Children Act 1989. In relation to school admissions legislation a 'looked after child' is only considered as such if the LA confirms he or she will be in public care when he or she is admitted to a school.

## **Composite prospectus**

The prospectus that a LA is required to publish at least six weeks before parents express their preferences for schools. This prospectus **must** include the detailed admission arrangements of all maintained schools in the area (including admission numbers, catchment areas and the timetabled admissions process).

## **Conditionality**

Oversubscription criterion that stipulates conditions that affect the priority given to an application, for example taking account of other preferences or giving priority to families who include in their other preferences a particular type of schools (e.g. where other schools are of the same religious denomination). Conditionality is prohibited by this Code.

## **Corporate parent**

The Welsh LA responsible for making an application for admission to school on behalf of a looked after child/child in care.

## **Governing bodies**

School governing bodies are bodies corporate responsible for conducting schools with a view to promoting high standards of educational achievement. Governing bodies have three key roles: setting strategic direction, ensuring accountability and monitoring and evaluation. Governing bodies of voluntary aided and foundation schools are admission authorities for their schools.

## **Home-school agreements**

A statement explaining: the school's aims and values; the school's responsibilities towards its pupils who are of compulsory school age; the responsibilities of the pupil's parents; and what the school expects of its pupils. It is not acceptable to require signature of a home-school agreement as a condition of admitting a child to a school.

## **Infant class size exceptions**

These are prescribed exceptions to the statutory requirement that infant classes **must** be no more than 30 per school teacher. These include: the admission of looked after children outside the normal admission round; the admission of pupils for whom no other maintained school is available within the area; children admitted on appeal; a child who was originally refused a place in error; and pupils with statements of SEN which name the school. In all these cases the class can only remain in breach of the statutory requirement for that school year; qualifying measures **must** be taken to ensure that the class size regulations are complied with for following years.

## **Infant class size limit**

The 1998 Act requires children aged 5, 6, and 7 to be taught in classes of no more than 30 per school teacher.

## **Junior class size target**

The Welsh Assembly Government has a target of ensuring children aged 7 to 11 are taught in classes of no more than 30 per school teacher.

## **Oversubscription criteria**

The list of criteria an admission authority **must** adopt for its school(s) which are used only when the school is oversubscribed to assess which children will be offered a place. Once determined, admissions criteria, including the admission number, **must** be published by the school and in the LA composite prospectus at least 6 weeks before parents express their preferences.

## **Public Services Ombudsman for Wales**

An independent, impartial and free service that looks into complaints by members of the public where they have suffered hardship or injustice through maladministration or service failure on the part of a public body in Wales.

## **Relevant area**

The area for a school (determined by its LA and then reviewed every two years) within which the admission authority for that school must consult all other schools on its admission arrangements.

