
STATUTORY INSTRUMENTS

2012 No. 8

The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) Regulations 2012 and come into force on 1st February 2012.

(2) Chapters 1 to 5 of Part 2 of these Regulations apply in relation to arrangements under which pupils are admitted to schools in England for the academic year 2013-2014 and subsequent years.

(3) Part 1 so far as it relates to co-ordination of admission arrangements and Part 3 of these Regulations—

(a) apply (subject to the saving in regulation 3(3)) in relation to arrangements under which pupils are to be admitted to schools in England for the academic year 2014-2015 and subsequent years; and

(b) do not apply to the Council of the Isles of Scilly.

(4) These Regulations apply in relation to arrangements under which pupils are admitted to schools in England and, in respect of objections to admission arrangements, these Regulations apply to both schools and Academies.

Interpretation

2.—(1) Save where otherwise appears, any reference in these Regulations to a numbered section is a reference to that section of SSFA 1998.

(2) In these Regulations—

“SSFA 1998” means the School Standards and Framework Act 1998;

“academic year” means a period commencing with 1st August and ending with the next 31st July;

“Academy” has the meaning in section 1(10) of the Academies Act 2010⁽¹⁾: a school to which Academy arrangements relate;

“Academy arrangements” has the meaning in section 1(2) of the Academies Act 2010;

(1) [2010 c.32](#); section 53 of the Education Act [2011 \(c.21\)](#), which is not yet in force, prospectively amends section 1(10) of the Academies Act 2010 and inserts section 1A into that Act. An Academy for the purposes of these Regulations will become known as an Academy school under section 1A of the Academies Act when section 53 of the Education Act 2011 is brought into force.

- “admission authority” has the meaning in section 88(1)(2);
- “admission number” means the number of children in any relevant year group intended to be admitted in the academic year as determined or, where the context requires, proposed to be determined by an admission authority in accordance with section 88D;
- “admission year” in relation to the admission of pupils to schools during a particular academic year in pursuance of a qualifying scheme or a scheme imposed by the Secretary of State, means that academic year;
- “application”, in relation to arrangements made by a local authority under section 86(1)(3), means a parent’s expression of preference as to the school at which that parent wishes education to be provided for the child;
- “determination year”, in relation to the proposed admission arrangements for a school, means the academic year beginning two years before the academic year to which the arrangements relate;
- “offer date” means the date prescribed by regulation 30 when applicants receive notice of the place they have been allocated at a primary or secondary school;
- “offer year” means the academic year immediately preceding the admission year;
- “oversubscription criteria” means the criteria to be used to allocate places at a school if the admission authority receive more applications than there are places available;
- “pre-existing selection arrangements” means any selection arrangements which —
- (a) were included in the admission arrangements for a school at the beginning of the academic year 1997-1998 and for each subsequent academic year, and
 - (b) which depend solely for their lawfulness on section 100 (permitted selection: pre-existing arrangements)(4);
- “prescribed alteration” means an alteration prescribed for the purposes of section 18 of the Education and Inspections Act 2006(5);
- “qualifying scheme” means a scheme co-ordinating arrangements for the admission of pupils to primary schools and secondary schools in the local authority area formulated by a local authority pursuant to section 88M(1)(a)(6) and these Regulations;
- “relevant area” has the meaning in section 88F(4)(7);
- “school” means a community, foundation or voluntary school;
- “School Admissions Code” means any code for school admissions issued under section 84(8);
- “selective Academy” is an Academy which replaces a school and to which section 6(3) of the Academies Act 2010 applies (retention of selective admission arrangements on conversion);
- “selection arrangements” means those arrangements (if any) in the admission arrangements determined for a school for a particular academic year which make provision for the selection of pupils by ability or aptitude within the meaning of section 99(5);

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- (2) Section 88 was amended by section 43(1) of the Education and Inspections Act 2006 (c.40), S.I. 2010/1158 and section 64(2) of the Education Act 2011 (c.21).
 - (3) Section 86(1) was amended by S.I. 2010/1158.
 - (4) That is to say they are not rendered lawful by section 99(2)(c) (sixth forms), section 101 (permitted selection: pupil banding), or section 102 (permitted selection: aptitude for particular subjects) of the School Standards and Framework Act 1998 (c.31), nor by section 39(1)(b) (grammar schools) of the Education and Inspections Act 2006 (c.40).
 - (5) 2006 c.40.
 - (6) Section 88M(1) was amended by S.I. 2010/1158.
 - (7) Section 88F was amended by S.I. 2010/1158.
 - (8) Section 84 was amended by section 40 of, and Part 6 of Schedule 18 to, the Education and Inspections Act 2006(c.40).

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(9);

(3) For the purposes of these Regulations admission arrangements for a school or an Academy are treated as being for the particular academic year in which pupils are to be admitted to the school in consequence of the arrangements.

(4) For the purposes of these Regulations an application is made in the course of a normal admission round if it is not a late application or an in-year application.

(5) For the purposes of these Regulations an application is a late application if—

- (a) it is for the admission of a child to a relevant age group(10);
- (b) it is submitted before the first day of the first school term of the admission year; and
- (c) a determination relating to the application is not made by an admissions authority on or before the offer date.

(6) For the purposes of these Regulations an application is an in-year application if—

- (a) it is for the admission of a child to a relevant age group and it is submitted on or after the first day of the first school term of the admission year; or
- (b) it is for the admission of a child to an age group other than a relevant age group.

Revocations and amendments

3.—(1) Subject to the savings in paragraphs (2) and (3) the following Regulations are revoked—

- (a) the School Admissions (Admission Arrangements) (England) Regulations 2008(11);
- (b) the School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2008(12); and
- (c) the School Admissions (Local Authority Reports and Admission Forums) (England) Regulations 2008(13).

(2) The Regulations in paragraph (1)(a) continue to have effect in relation to the arrangements under which pupils are admitted to schools in England for the academic years 2011-2012 and 2012-2013.

(3) Subject to regulation 31, the Regulations in paragraph (1)(b) continue to have effect in relation to the arrangements under which pupils are admitted to schools in England for the academic years 2011-2012, 2012-2013 and 2013-2014.

4.—(1) The School Information (England) Regulations 2008(14) are amended as follows.

(2) In paragraph 2(d) of Part 1 of Schedule 2 (Information to be published in Composite Prospectus) after the words “admission round”, insert the words “can be made and”.

(3) In paragraph 15 of Part 2 of Schedule 2, omit sub-paragraph (c) and move “;or” from the end of sub-paragraph (b) to the end of sub-paragraph (a).

(9) 1971 c.80.

(10) See section 142(1) of the School Standards and Framework Act 1998 (c.31) for the definition of “relevant age group”.

(11) S.I. 2008/3089, amended by S.I. 2009/1099 and S.I. 2010/1172.

(12) S.I. 2008/3090.

(13) S.I. 2008/3091.

(14) S.I. 2008/3093.

PART 2

Admission arrangements

CHAPTER 1

General

Proportion of selective admissions

5.—(1) This regulation has effect for the purpose of calculating the proportion of selective admissions within the meaning of section 100(3) and section 102(4) in relation to the admission of pupils in any relevant age group to a school in any year.

(2) For the purpose of that calculation the total number of pupils in any such age group admitted to the school in an academic year is to be taken to equal the number of pupils in that age group which it is intended to admit to the school in that year.

Selection by aptitude for particular subjects

6.—(1) Subject to paragraph (2) the following subjects are prescribed for the purposes of section 102 (permitted selection: aptitude for particular subjects)—

- (a) modern foreign languages, or any such language,
- (b) the performing arts, or any one or more of the performing arts,
- (c) the visual arts, or any one or more of the visual arts,
- (d) physical education or sport, or any one or more sports,
- (e) design and technology,
- (f) information technology.

(2) The subjects in sub-paragraphs (e) and (f) of paragraph (1) are prescribed in relation to admission arrangements for a school for the academic year 2013-2014 and subsequent academic years only if the admission arrangements for that school made provision for the selection of pupils by reference to their aptitude in those subjects in relation to the academic year 2007-2008 and each subsequent year.

CHAPTER 2

Admission arrangements: looked after children

Priority for looked after children

7.—(1) Except where regulations 8, 9, 10 or 11 applies, an admission authority must give first priority in their oversubscription criteria to all relevant looked after children.

(2) For the purposes of this Part—

- (a) “relevant looked after child” means a child who is looked after by the local authority in accordance with section 22 of the Children Act 1989(15) at the time an application to a school is made, and
- (b) any reference to an admission authority giving priority in their oversubscription criteria to a relevant looked after child is a reference to the authority giving priority to such a child

(15) 1989 c.4; section 22(1) was amended by the Local Government Act 2000 (c.22), Schedule 5, the Children (Leaving Care) Act 2000 (c.35), section 2(2), and the Adoption and Children Act 2002 (c.38), section 116(2). There are further amendments to section 22 which are not relevant for these Regulations.

when determining their admission arrangements before the beginning of each school year in accordance with section 88C.

Grammar schools

8.—(1) This regulation applies to an admission authority for a grammar school as defined by section 104(7).

(2) No priority need be given to a relevant looked after child where the arrangements for the admission of pupils are wholly based on selection by reference to ability and provide for only those pupils who achieve the highest ranked results in any selection test to be admitted.

(3) Where paragraph (2) does not apply, the admission authority must give first priority in their oversubscription criteria to all relevant looked after children who meet the pre-set standards of the school.

Schools designated as having a religious character

9.—(1) This regulation applies to an admission authority for a school which has been designated as having a religious character by an order under section 69(3).

(2) The admission authority may give first priority in their oversubscription criteria to all relevant looked after children, whether or not they are of the same faith as that of the school in accordance with its designation, and must in any event—

- (a) give first priority to all relevant looked after children who are of that faith, and
- (b) give higher priority to all relevant looked after children not of that faith than to all other children not of that faith.

Schools with pre-existing selection arrangements

10.—(1) This regulation applies to an admission authority for a school which has pre-existing selection arrangements.

(2) No priority need be given to a relevant looked after child where the arrangements for the admission of pupils are wholly based on selection by reference to ability and provide for only those pupils who achieve the highest ranked results in any selection test to be admitted.

(3) Where paragraph (2) does not apply, the admission authority must give first priority in their oversubscription criteria to all relevant looked after children who meet the pre-set standards of the school.

(4) Where the admission authority have allocated places in accordance with paragraph (2) or (3), they must give higher priority to all relevant looked after children who have not been allocated a place on the basis of their ability or aptitude in the oversubscription criteria than to all other children who have not been offered a place on the basis of their ability or aptitude.

Schools which select by pupil banding

11.—(1) This regulation applies to an admission authority for a school which makes provision for selection by ability in accordance with section 101(1) or (1A)(**16**) (permitted selection: pupil banding).

(2) The admission authority must give first priority in their oversubscription criteria to all relevant looked after children within each band over all other children eligible for a school place within that band.

(16) Subsections 101(1) and (1A) were amended and inserted respectively by the Education and Inspections Act 2006 (c.40), section 54(1).

CHAPTER 3

Procedure for determining admission arrangements: consultation

Persons who must be consulted

12.—(1) This regulation prescribes for the purposes of section 88C(2) the persons who must be consulted about proposed admission arrangements for a school.

(2) Subject to regulation 14 the following persons must be consulted—

- (a) whichever of the governing body and the local authority are not the admission authority;
- (b) the admission authorities for all other schools in the relevant area;
- (c) where the admission authority for the school are the local authority, any neighbouring local authority;
- (d) parents of children between the ages of two and eighteen who are resident in the relevant area;
- (e) such other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admission arrangements; and
- (f) in the case of a foundation or voluntary aided school which is designated as having a religious character by an order under section 69(3), the body or person representing the religion or religious denomination in question as specified in Schedule 3.

(3) For the purposes of sub-paragraph (2)(b) in the case of a primary school the admission authority need only consult the admission authorities for other primary schools.

(4) For the purposes of sub-paragraph (2)(c) a local authority are “neighbouring”, in relation to another local authority, if the areas of the two authorities adjoin to any extent.

Matters to which consultation is to relate

13.—(1) This regulation prescribes for the purposes of section 88C(2) the matters to which any consultation must relate.

(2) Subject to regulations 14 and 15, consultation must relate to the arrangements (including any supplementary information form) which the admission authority propose to determine as the admission arrangements for the school for the particular academic year, except any exempt arrangements.

(3) For the purposes of paragraph (2) admission arrangements are exempt to the extent that—

- (a) in the case of a grammar school, they make provision that the school should retain selective admission arrangements as defined by section 104(2) or that the school should cease to have such arrangements in accordance with section 108(17) or section 109(18);
- (b) section 88C is excluded by section 103(1) and (2)(19) from applying to their determination (making or abandonment of provision for selection which constitutes a prescribed alteration).

(17) Section 108 was amended by the Education and Skills Act 2008 (c.25), Schedule 1, paragraph 70.

(18) Section 109 was amended by the Education and Inspections Act 2006 (c.40), Schedule 3, paragraph 29, and S.I. 2010/1158.

(19) Subsection 103(1) was amended by the Education and Skills Act 2008 (c.25), Schedule 1, paragraph 69. Subsection 103(2) was amended by Education and Inspections Act 2006 (c.40), section 54(3)(a) and (b).

Matters about which consultation is not required

14.—(1) Subject to paragraph (2) an admission authority are not required to consult about a proposal to increase or keep the same admission number in any consultation on admission arrangements under section 88C(2) for the academic year 2013-2014 or any subsequent years.

(2) Where the admission authority for a community or voluntary controlled school are the local authority they must consult the governing body of the school if they propose to increase or keep the same admission number.

Circumstances where consultation on admission arrangements is not required

15.—(1) This regulation prescribes for the purposes of section 88C(2) the circumstances in which an admission authority are not required to consult on their proposed admission arrangements.

(2) Subject to paragraphs (3) and (4) an admission authority are not required to consult on their proposed admission arrangements for the academic year 2013-2014 and any subsequent admission year where they consulted on their proposed admission arrangements in accordance with section 88C(2) in any of the seven preceding determination years, and the proposed arrangements are the same as those determined following the last such consultation.

(3) The proposed arrangements are treated as the same for the purpose of paragraph (2) if the only change made to the proposed admission arrangements is one or more of the following changes—

- (a) an increase to the admission number in accordance with regulation 14, or
- (b) a change made to comply with any mandatory requirement in the School Admissions Code or these Regulations.

(4) A consultation required under regulation 14(2) is not to be regarded as a consultation for the purpose of calculating whether an admission authority have consulted in any of the seven preceding determination years in paragraph (2).

Manner of consultation

16.—(1) During a period of consultation an admission authority must—

- (a) publish their proposed admission arrangements on their website (if they have one), together with details of the person within the admission authority to whom comments may be sent, for the duration of the consultation held by virtue of regulation 12(1) and (2), and
- (b) send upon request to each person who must be consulted by virtue of sub-paragraphs (a) to (f) of regulation 12(2) a copy of the proposed admission arrangements, inviting their comments.

(2) For the purposes of this regulation the proposed admission arrangements must include any exempt arrangements (within the meaning of regulation 13(3)) and the admission number together with an indication as to the matters on which comments are not sought.

(3) Communication under paragraph (1)(b) may be effected by the transmission of a copy of the proposed admission arrangements in electronic form.

Time for consultation and determination of admission arrangements

17.—(1) Subject to paragraph (2) every admission authority must, in respect of their proposed admission arrangements for a school for each academic year, take all steps necessary to ensure that they will have completed any consultation required by section 88C and these Regulations before 1st March in the determination year.

(2) Any consultation—

- (a) must allow consultees at least eight weeks to respond, and

- (b) in the case of consultations in relation to admission arrangements for the academic year 2014-2015 and subsequent years, must start no earlier than 1st November in the determination year.
- (3) Every admission authority must determine their admission arrangements by 15th April in the determination year.

CHAPTER 4

Publication of determined admission arrangements

Publication by local authority

18.—(1) A local authority must publish the following information on their website by 1st May in the determination year—

- (a) the proposed admission arrangements for any school or Academy which is intended to open in their area within the determination year;
- (b) the details of where the determined admission arrangements for schools and Academies in their area can be viewed; and
- (c) a statement about any person or body's right to object to admission arrangements, the condition to be met before an objection can be determined (regulation 24), and those objections that cannot be made (regulations 21 and 22).

(2) Where determined admission numbers are varied under regulation 20, the local authority must publish the varied admission arrangements on their website following—

- (a) the making of the variation, or
- (b) where the local authority are not the admission authority, receipt of notification of the variation having been made.

CHAPTER 5

Variation of determined admission arrangements

Variation of admission arrangements

19.—(1) This regulation prescribes for the purposes of section 88E(9)(b) the circumstances in which an admission authority may vary the admission arrangements they have determined for a particular academic year.

(2) An admission authority may vary the admission arrangements under which pupils are to be admitted to school to the extent that such variation is necessary to give effect to any of the following—

- (a) the School Admissions Code;
- (b) mandatory requirements of Part 3 of SSFA 1998;
- (c) a determination of the adjudicator under section 88(H)(4)(**20**), 88I(4)(b) or 88I(5)(b); or
- (d) a correction to any misprint in the admission arrangements.

Variation of the determined admission number

20.—(1) This regulation prescribes for the purposes of section 88E(3) the case in which an admission authority are not required to refer their proposed variation to the adjudicator.

(20) Subsection 88H(4) was amended by the Education Act 2011 (c.21), section 36(4).

(2) A variation to increase the determined admission number may be made by an admission authority without being referred to the adjudicator.

CHAPTER 6

Reference of objections to the adjudicator: schools and Academies

Objections that may not be referred to the adjudicator

21.—(1) For the purposes of section 88H(2)(b) the description of objections that may not be referred under section 88H(2)(21) is—

- (a) an objection which in substance seeks an alteration to admission arrangements for a grammar school, which by virtue of section 104(4) may only be made in accordance with sections 105(22) to 109(23) (altering the school's admission arrangements so that it no longer has selective admission arrangements);
- (b) an objection which in substance seeks an alteration to admission arrangements for a selective Academy so as to remove selection, which by virtue of its Academy arrangements may only be made in accordance with those Academy arrangements;
- (c) an objection that the admission number has not been changed or has been increased for—
 - (i) any school whose admission authority are not the local authority; or
 - (ii) an Academy;
- (d) an objection in respect of an increase or no change to the admission number for a community or voluntary controlled school other than an objection by the governing body of that school;
- (e) an objection to an agreement that the admission arrangements for an Academy may vary from the School Admissions Code.

(2) For the purposes of paragraph (1)(e), an agreement is that made between the proprietor of an Academy and the Secretary of State and set out in the Academy arrangements.

Restriction on referring objections following a decision by the adjudicator

22. For the purposes of section 88H(5)(d)(24), where the adjudicator has determined an objection to the admission arrangements of a school or Academy, no objection may be referred to the adjudicator raising the same or substantially the same issues in relation to those admission arrangements within 2 years of the decision by the adjudicator.

Time limit for objections

23. The adjudicator is not required to determine an objection referred under section 88H(2) unless it is received by the adjudicator on or before 30th June in the determination year.

Condition to be met before the determination of an objection

24. An objection may only be referred under section 88H(2) where the person or body making the objection provides their name and address to the adjudicator.

(21) Subsection 88H(2) was amended by the Education Act 2011 (c.21), section 36(2).

(22) Section 105 was amended by S.I. 2010/1158.

(23) Section 109 was amended by the Education and Inspections Act 2006 (c.40), Schedule 3, paragraph 29 and S.I. 2010/1158.

(24) Subsection 88H(5)(d) was amended by the Education Act 2011 (c.21), section 36(5)(d).

Information to be provided by the admission authority

25. Where the adjudicator is carrying out functions under sections 88H and 88I(25) and makes a request to the admission authority of a school or an Academy for any of the information set out in Schedule 1 to these Regulations the admission authority must provide the requested information to the adjudicator.

PART 3

Co-ordination of admission arrangements

Formulation of qualifying schemes

26.—(1) A local authority must formulate, in relation to each academic year, a qualifying scheme in relation to each primary and secondary school in their area (a “qualifying scheme”).

(2) A qualifying scheme must comply with the requirements in Schedule 2.

Action to be taken by a local authority to secure adoption of a qualifying scheme

27.—(1) This regulation prescribes for the purposes of section 88M(1)(b)(26) the action to be taken by a local authority with a view to securing the adoption of a qualifying scheme by themselves and each governing body who are the admission authority for a primary school or secondary school in their area.

(2) The local authority must formulate a qualifying scheme by 1st January in the relevant determination year.

(3) Where—

- (a) the qualifying scheme is substantially different from the qualifying scheme adopted for the preceding academic year, or
- (b) the local authority have not consulted on a qualifying scheme adopted in the previous seven years,

the local authority must consult the bodies mentioned in paragraph (4).

(4) The bodies to be consulted are—

- (a) each governing body who are the admission authority for a school in the local authority’s area; and
- (b) any other local authority as the authority thinks appropriate.

(5) The consultation pursuant to paragraph (4)(b) must be undertaken with a view in particular to securing that the arrangements for the admission of pupils to schools in the areas of different local authorities are, so far as is reasonably practicable, compatible with each other.

(6) After the local authority have carried out any consultation required under this regulation they must determine the qualifying scheme (either in its original form or with such modifications as the authority think fit) for the academic year in question and must take all reasonable steps to secure its adoption by themselves and each governing body who are an admission authority that they consulted in relation to it.

(25) Sections 88H and 88I were amended by the Education Act 2011 (c.21). Section 88H was amended by section 36(1) to (6), and section 64(3). Section 88I was amended by sections 34(3) and 64(4).

(26) Section 88M(1) was amended by S.I. 2010/1158.

Information to be provided to the Secretary of State

28. A local authority must inform the Secretary of State by 15th April in the relevant determination year whether they have secured the adoption of a qualifying scheme or not.

Making of a scheme by the Secretary of State

29. In any case where by 15th April in the relevant year the local authority have not informed the Secretary of State in accordance with regulation 28 that a scheme has been adopted in their area—

- (a) the Secretary of State may make and impose a scheme, or
- (b) where the Secretary of State has previously made and imposed a scheme which had effect in relation to the preceding year and has not been revoked, the Secretary of State may notify the local authority that that scheme has effect in relation to the academic year immediately following.

Offer date

30.—(1) Subject to paragraph (3), this regulation prescribes for the purposes of section 88M(4)(b), the single date in each year on which a determination made in accordance with the provisions of a qualifying scheme or a scheme imposed by the Secretary of State to offer or refuse a child admission to a primary or secondary school must be communicated to a parent.

- (2) The prescribed day is—
 - (a) for primary schools, 16th April,
 - (b) for secondary schools, 1st March,

in the offer year except that, in any year in which that day is not a working day the prescribed day is the next working day.

(3) The requirement in paragraph (1) to send a determination to offer or refuse a child admission to a school only applies to applications made in the course of a normal admission round.

Saving for qualifying schemes

31. Any qualifying scheme formulated on or before 1st January 2012 under the School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2008(27) for admission of pupils to a school in September 2013 is to have effect, save that any part of the scheme that relates to in-year applications will not have effect.

Sections 496 and 497 of the Education Act 1996

32. Sections 496 and 497(28) of the Education Act 1996 apply to a local authority or a governing body as if any of the obligations imposed on them under a qualifying scheme or an imposed scheme were duties imposed on them under that Act.

(27) S.I. 2008/3090.

(28) Sections 496 and 497 were amended by the School Standards and Framework Act 1998 (c.31), Schedule 30, paragraphs 57, 129 and 130; the Education and Inspections Act 2006 (c.40), section 168; the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), sections 59 and 221, and Schedule 2, paragraphs 1 to 8; and S.I. 2010/1158.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART 4

Miscellaneous

Provision of information to local authority

33. For the purposes of section 88Q (relevant persons who must provide information to a local authority), the clerk to an appeal panel constituted under section 94(5)(**29**) is a relevant person.

Representative bodies or persons for schools designated as having a religious character

34. For the purposes of section 88F(3)(e) the bodies or persons listed in Schedule 3 are the representatives of the religion or religious denomination in question for schools designated as having a religious character.

3rd January 2012

Nick Gibb
Minister of State
Department for Education

(29) Subsection 94(5) was inserted by the Education Act 2002 (c.32), section 50 and Schedule 4, paragraph 4.