



School Standards and Framework Act 1998

1998 CHAPTER 31

PART III

SCHOOL ADMISSIONS

CHAPTER I

ADMISSION ARRANGEMENTS

Power to direct admission of child to school

96 Direction to admit child to specified school.

- (1) The [^{F1}local authority] may give a direction under this section [^{F2}to the governing body of a school for which they are not the admission authority] if, in the case of any child in their area, either (or both) of the following conditions is satisfied in relation to each school which is a reasonable distance from his home and provides suitable education, that is—
 - (a) he has been refused admission to the school, or
 - (b) he is permanently excluded from the school.
- (2) A direction under this section shall specify a school—
 - (a) which is a reasonable distance from the child's home, and
 - (b) from which the child is not permanently excluded.
- (3) A direction under this section shall, unless it is given on the determination of [^{F3}the appropriate authority (within the meaning of section 97)] under section 97(4), specify a school in the area referred to in subsection (1).

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- [^{F4}(3A) A direction under this section to admit a child shall not specify a school which has in place admission arrangements that make provision for selection by ability falling within section 99(2)(c) unless the child satisfies the selection criteria.]
- (4) A direction under this section to admit a child shall not specify a school if his admission would result in prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.
- (5) Where a school is specified in a direction under this section, the governing body shall admit the child to the school.
- (6) Subsection (5) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (7) In this section “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and [^{F5}(in the case of a local authority in England) to any special educational needs or (in the case of a local authority in Wales) to any additional learning needs] he may have.
- (8) In this section and [^{F6}sections 97 to 97C] “school” means a maintained school.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F2** Words in s. 96(1) inserted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 10** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F3** Words in s. 96(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 51(2)(a)**, 188(3); S.I. 2006/3400, art. 3(d)
- F4** S. 96(3A) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 43(3)**, 269(4); S.I. 2010/303, art. 3, Sch. 2
- F5** Words in s. 96(7) substituted (1.9.2021 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 7(2)**; S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2)
- F6** Words in s. 96(8) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 51(2)(b)**, 188(3); S.I. 2006/3400, art. 3(d)

Modifications etc. (not altering text)

- C1** S. 96 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.
S. 96 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.
- C2** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C3** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

97 Procedure for giving direction under section 96.

- (1) Before deciding to give a direction under section 96, the [^{F1}local authority] shall consult—
- [^{F7}(za) the child, in a case within subsection (1A);]

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- (a) the parent of the child, and
- (b) the governing body of the school they propose to specify in the direction.

[^{F8}(1A) A case is within this subsection if—

- (a) the local authority are a local authority in England, and
- (b) the child is over compulsory school age.]

(2) Where the [^{F1}local authority] decide to give such a direction specifying any school—

- (a) they shall, before doing so, serve a notice in writing of their decision on the governing body and head teacher of the school, and
- (b) they shall not give the direction until the period for referring the matter to [^{F9}the appropriate authority] under subsection (3) has expired and, if it is so referred, [^{F9}the appropriate authority] has made [^{F10}its determination].

(3) The governing body may, within the period of 15 days beginning with the day on which the notice was served, refer the matter to [^{F11}the appropriate authority] and, if they do so, shall inform the [^{F1}local authority].

[^{F12}(4) On a reference under subsection (3) [^{F13}the appropriate authority] may determine which school is to be required to admit the child, and [^{F14}if it does so]—

- (a) where the [^{F1}local authority] referred to in subsection (1) are the admission authority for that school, they shall—
 - (i) admit the child to the school, and
 - (ii) give notice in writing to the governing body and head teacher of the school of [^{F15}the appropriate authority's] determination, and
- (b) in any other case, that school shall be specified in the direction.]

(5) [^{F16}The appropriate authority] shall not make a determination under subsection (4) in relation to a school if the child's admission to the school would result in prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.

[^{F17}(6) A direction under section 96 shall be given by notice in writing; and a copy of the notice shall be given by the [^{F1}local authority] to the head teacher of the school.]

[^{F18}(6A) In this section, “the appropriate authority” means—

- (a) in relation to a [^{F1}local authority] in England, the adjudicator, and
- (b) in relation to a [^{F1}local authority] in Wales, the Assembly.]

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F7** S. 97(1)(za) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 36(a)** (with art. 2(3))
- F8** S. 97(1A) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 36(b)** (with art. 2(3))
- F9** Words in s. 97(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(a)(i), 188(3)**; S.I. 2006/3400, art. 3(b)

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- F10** Words in s. 97(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(a)(ii)**, 188(3); S.I. 2006/3400, art. 3(b)
- F11** Words in s. 97(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(b)**, 188(3); S.I. 2006/3400, art. 3(b)
- F12** S. 97(4) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 11(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F13** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(c)(i)**, 188(3); S.I. 2006/3400, art. 3(b)
- F14** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(c)(ii)**, 188(3); S.I. 2006/3400, art. 3(b)
- F15** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(c)(iii)**, 188(3); S.I. 2006/3400, art. 3(b)
- F16** Words in s. 97(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(d)**, 188(3); S.I. 2006/3400, art. 3(b)
- F17** S. 97(6) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 11(3)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F18** S. 97(6A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(e)**, 188(3); S.I. 2006/3400, art. 3(b)

Modifications etc. (not altering text)

- C2** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C3** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C4** S. 97 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.
S. 97 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.

[F19]97A Direction to admit looked after child to specified school

- (1) A local authority in England may, in relation to a child looked after by them, give a direction under this section to the admission authority for any school in England other than a school for which the local authority are the admission authority.
- (2) A direction under this section shall not specify a school from which the child is permanently excluded.
- (3) Where a school is specified in a direction under this section, the admission authority shall admit the child to the school.
- (4) Subsection (3) does not affect any power to exclude from a school a pupil who is already a registered pupil there.

Textual Amendments

- F19** Ss. 97A, 97B inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 50(1)**, 188(3); S.I. 2006/3400, art. 3(c)

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97B Procedure for giving direction under section 97A

- (1) Before deciding to give a direction under section 97A, the local authority shall consult the admission authority for the school they propose to specify in the direction.
- (2) The admission authority for the school shall, within the period of seven days beginning with the day on which they are consulted as mentioned in subsection (1), inform the local authority whether they are willing to admit the child to the school without being directed to do so by the authority.
- (3) Where the local authority decide to give a direction under section 97A specifying a school—
 - (a) they shall, before doing so, serve a notice in writing of their decision on—
 - (i) the admission authority for the school,
 - (ii) if the school is a community or voluntary controlled school and the governing body of the school are not the admission authority, the governing body of the school,
 - (iii) if the school is maintained by a [F1local authority] who are not the authority proposing to give the direction and are not the admission authority, the [F1local authority] who maintain the school, and
 - (iv) the head teacher of the school, and
 - (b) they shall not give the direction until the period for referring the matter to the adjudicator under subsection (4) has expired and, if it is so referred, until the adjudicator has made such determinations under this section as it appears to him to be appropriate to make in connection with the reference.
- (4) The following persons—
 - (a) the admission authority on whom a notice is served under subsection (3)(a)(i), and
 - (b) in the case of a notice relating to a child to whom (at the time of service of the notice) section 87(2) applies, the governing body of a community or voluntary controlled school on whom the notice is served under subsection (3)(a)(ii),may, within the period of seven days beginning with the day on which the notice was served, refer the matter to the adjudicator and, if they do so, shall inform the local authority.
- (5) A reference under subsection (4) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (6) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (5)—
 - (a) the local authority may not give a direction under section 97A that the school admit the child, but
 - (b) the adjudicator may determine that another school in England is to be required to admit the child.
- (7) A determination under subsection (6)(b) may only be made with the agreement of the local authority who look after the child.
- (8) A determination under subsection (6)(b) may not be made if—
 - (a) the child is permanently excluded from the other school, or

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- (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (9) If the adjudicator determines under subsection (6)(b) that another school is to be required to admit the child, then—
- (a) if the local authority referred to in subsection (1) are the admission authority for that school they shall—
- (i) admit the child to the school, and
- (ii) give notice in writing to the governing body and head teacher of the school of the adjudicator's decision, and
- (b) in any other case, the local authority shall specify that school in their direction under section 97A.
- (10) A direction under section 97A shall be given by notice in writing and a copy of the notice shall be given by the local authority to the head teacher of the school.]

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F19** Ss. 97A, 97B inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 50(1)**, 188(3); S.I. 2006/3400, art. 3(c)

[^{F20}97C Determinations under section 97 or 97B: supplemental

Regulations may make provision in relation to England—

- (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under section 97 or 97B;
- (b) requiring an admission authority for a school to provide information which—
- (i) falls within a prescribed description, and
- (ii) is requested by the adjudicator for the purposes of any such determination.]

Textual Amendments

- F20** S. 97C inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 51(3)**, 188(3); S.I. 2006/3400, art. 3(d)

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