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STATUTORY INSTRUMENTS

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**2008 No. 3089**

**EDUCATION, ENGLAND**

**The School Admissions (Admission Arrangements) (England) Regulations 2008**

<i>Made</i>	- - - -	<i>3rd December 2008</i>
<i>Laid before Parliament</i>		<i>10th December 2008</i>
<i>Coming into force</i>	- -	<i>31st December 2008</i>

The Secretary of State for Children, Schools and Families, after consulting the Administrative Justice and Tribunals Council pursuant to paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007<sup>(1)</sup>, makes the following Regulations in exercise of the powers conferred by sections 1, 88B, 88C, 88D, 88E, 88F, 88G, 88H, 88I, 88K, 88L, 92, 100, 102 and 138(7) of the School Standards and Framework Act 1998<sup>(2)</sup> and section 29(3) of the Education Act 1996<sup>(3)</sup>:

**PART 1**

**General**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the School Admissions (Admission Arrangements) (England) Regulations 2008.

(2) These Regulations come into force on 31st December 2008.

(3) They apply in relation to admission arrangements for schools in England for the academic year 2010-2011 and subsequent years.

**Interpretation**

2.—(1) In these Regulations—

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(1) 2007 c.15.

(2) 1998 c.31; section 1 is amended by Schedule 21 of the Education Act 2002 (c.32), sections 88B to 88L are inserted by section 151 of the Education and Skills Act 2008 (c.25), section 92 is substituted by paragraph 7 of Schedule 4 to the Education Act 2002, sections 100 and 102 are amended respectively by sections 53 and 54 of the Education and Inspections Act 2006 (c.40). See section 142(1) of the School Standards and Framework Act 1998 for the definitions of “regulations” and “prescribed”.

(3) 1996 c. 56. See definitions of “prescribed” and “regulations” in section 579(1).

“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;

“additional radial area” means any part of the radial area which falls outside the relevant area for consultation about the proposed admission arrangements for a school (but excluding any part of such an area that is in Scotland);

“admission authority” has the meaning in section 88(1);

“admission number” means the number of children in any relevant age group intended to be admitted in any academic year as determined or, where the context requires, proposed to be determined by an admission authority in accordance with section 88D;

“determination year”, in relation to the proposed admission arrangements for a school, means the academic year beginning two years before the academic year which the arrangements will be for;

“local authority” means a local education authority;

“indicated admission number” means the number of pupils in any relevant age group referred to as such in, and determined in accordance with the net capacity assessment method set out in, the guidance “Assessing the Net Capacity of Schools” issued by the Department for Education and Skills in August 2002;<sup>(4)</sup>

“main entrance” means the principal entrance to the school premises or, if the school has more than one site, the principal entrance to the main administrative building of the school;

“oversubscription criteria” means the criteria to be used to allocate places at a school if the admission authority receives 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 1997/98 and for each subsequent academic year, and
- (b) which depend solely for their lawfulness on section 100 (*permitted selection: pre-existing arrangements*) (that is to say they are not rendered lawful by section 99(2)(c) (*sixth forms*), section 101 (*permitted selection: pupil banding*)<sup>(5)</sup>, section 102 (*permitted selection: aptitude for particular subjects*), or section 39(1)(b) of the Education and Inspections Act 2006 (*grammar schools*);

“prescribed alteration” means an alteration prescribed for the purposes of section 18 of the Education and Inspections Act 2006;

“radial area” is the area described by a circle—

- (a) of which the centre is the main entrance to the school to which the proposed admission arrangements relate, and
- (b) which has a radius of 3.2 kilometres in the case of a primary school and 8 kilometres in the case of a secondary school

(but excluding any part of such an area that is in Scotland); and

“relevant area” has the meaning in section 88F(4) and The Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999<sup>(6)</sup>;

“school” means a community, foundation or voluntary school;

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(4) Assessing the Net Capacity of Schools, DfES/0739/2001 REV is available on the DCSF website [www.dcsf.gov.uk/netcapacity/](http://www.dcsf.gov.uk/netcapacity/). See section 142(1) of SSFA 1998 for the definition of “relevant age group”.

(5) Section 101 is amended by section 54 of the Education and Inspections Act 2006.

(6) S.I. 1999/124.

“School Admissions Code” means any code for school admissions issued under section 84;(7) and

“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).

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

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

### **Regulations revoked**

3.—(1) Subject to paragraph (2) the Regulations set out in Schedule 1 are revoked.

(2) The Regulations referred to in Schedule 1 continue to have effect in relation to admission arrangements for schools in England for the academic years 2008-2009 and 2009-2010.

## **PART 2**

### **Admission arrangements: general**

#### **Determination of admission numbers**

4. For the purposes of section 88D(1) an admission authority must have regard to the current indicated admission number when determining the admission number for a relevant age group.

#### **Proportion of selective admissions**

5.—(1) This regulation has effect for the purposes 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 purposes of that calculation the total number of pupils in any such age group admitted to the school in an academic year shall 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—

- (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 one or more sports,
- (e) design and technology,
- (f) information technology.

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(7) Section 84 is amended by section 40 of, and Part 6 of Schedule 18 to, the Education and Inspections Act 2006.

(2) The subjects in sub-paragraphs (e) and (f) of paragraph (1) are prescribed in relation to admission arrangements for the academic year 2010-2011 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 2007-08 and each subsequent year.

## PART 3

### Admission arrangements: looked after children

#### **Action to be taken by an admission authority to give priority to looked after children in its admission arrangements**

7.—(1) Except where regulations 8, 9, 10 or 11 apply, an admission authority must give first priority in its 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 a local authority in accordance with section 22 of the Children Act 1989<sup>(8)</sup> at the time an application to a school is made, and who the local authority has confirmed will still be looked after at the time when he is admitted to the school; and
- (b) any reference to an admission authority giving priority in its oversubscription criteria to a relevant looked after child is a reference to the authority giving priority to such a child when determining its 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 its 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 its oversubscription criteria to all relevant looked after children, whether or not they are of the same faith as that which applies to 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 over all other children of that faith, and
- (b) give higher priority to all relevant looked after children not of that faith than all other children not of that faith.

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(8) c. 41.

### **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) The admission authority must give first priority in its oversubscription criteria to all relevant looked after children who are eligible for selection for admission by reference to ability or aptitude over all other children who have been so selected.

(3) Where the admission authority has allocated places in accordance with paragraph (2), all relevant looked after children who have not been allocated a place on the basis of their ability or aptitude must be given higher priority in the oversubscription criteria than 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) (*permitted selection: pupil banding*).

(2) The admission authority must give first priority in its oversubscription criteria to a relevant looked after child within each band over another child who is eligible for a school place within that band.

## **PART 4**

### **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 15 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) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within sub-paragraph (a) or (b));
- (d) where the admission authority for the school is the local authority, any neighbouring local authority;
- (e) where the admission authority for the school is the governing body, any relevant local authority (so far as not required by sub-paragraph (a) or (b));
- (f) the admission forum established by the local authority;
- (g) relevant parents;
- (h) such other persons in the relevant area or the additional radial area who appear to the admission authority to have an interest in the proposed admission arrangements; and
- (i) in the case of a foundation or voluntary 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.

(3) For the purposes of sub-paragraphs (2)(b) and (c) in the case of a primary school the admission authority need only consult the admission authorities for other schools in the relevant area which are primary schools.

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

(5) For the purposes of sub-paragraph (2)(e) a local authority is “relevant” if any part of its area falls within the relevant area for consultation or the additional radial area.

(6) For the purposes of sub-paragraph (2)(g) “relevant parents” means all parents who fall within regulation 26.

(7) For the purposes of sub-paragraph (2)(i)—

- (a) the bodies or persons listed in the second column of the Table must be consulted about proposed admission arrangements for schools designated as having the religion or religious denomination listed in the first column of the Table, and
- (b) where a school is designated as having more than one religion or religious denomination, the body or person listed in the second column of the Table for each of the religions or religious denominations must be consulted about the proposed admission arrangements for that school.

**Bodies and persons to be consulted in relation to the  
admission arrangements of schools with a religious character**

<i>Religion or religious denomination</i>	<i>Body or person to be consulted</i>
Church of England	The appropriate diocesan authority
Jewish	The appropriate rabbinic authority for the school listed in Schedule 2
Methodist	The Methodist Connexional Education Secretary
Muslim	The Association of Muslim Schools UK
Quaker	The Religious Society of Friends (Quakers)
Roman Catholic	The Diocesan Bishop or the equivalent in canon law for the diocese in which the school is situated
Seventh-Day Adventist	The British Union Conference of Seventh Day Adventists
Sikh	Nanaksar Thath Isher Darbar Trust

**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 all of the arrangements (including the whole admissions policy and 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 or section 109; or

- (b) section 88C is excluded by section 103(1) and (2) from applying to their determination (*making or abandonment of provision for selection which constitutes a prescribed alteration*).

#### **Additional consultation: proposed increase in admission number**

**14.—**(1) Where the proposed admission arrangements include an admission number which exceeds the admission number determined for the previous academic year by 27 or more—

- (a) the admission authority must also consult any trade union representing staff at the school who may be affected by the proposed increase, and
  - (b) such consultation need only relate to the proposed admission number.
- (2) For the purposes of this regulation “staff” means any person who works at the school.

#### **Circumstances where consultation is not required**

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

(2) An admission authority is not required to consult on its proposed admission arrangements for the academic year 2011-12 and any subsequent academic year where—

- (a) it consulted on its proposed admission arrangements in accordance with section 88C(2) in one or both of the two preceding determination years, and
- (b) the proposed admission arrangements are the same as those determined following the last such consultation.

#### **Manner of consultation**

**16.—**(1) An admission authority must communicate their proposed admission arrangements by—

- (a) sending each person who must be consulted by virtue of sub-paragraphs (a) to (f) and (i) of regulation 12(2) or regulation 14 a copy of the proposed admission arrangements and inviting their comments,
- (b) displaying a copy of 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 17(1) and (2), and
- (c) publishing, in a newspaper circulating in the locality of the local authority-
  - (i) information about where a copy of their proposed admission arrangements may be obtained, and
  - (ii) details of the person within the admission authority to whom comments may be sent.

(2) For the purposes of this regulation the proposed admission arrangements must include any exempt arrangements (within the meaning of regulation 13) together with an indication that comments are not sought on any such element of the proposed admission arrangements.

(3) Communication under paragraph (1) (a) may be effected by the transmission of a copy of the proposed admission arrangements in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that 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 the 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 2011-2012 and subsequent years, must start no earlier than 1st November in the determination year.

(3) Every admission authority must take all steps necessary to ensure that they determine their admission arrangements before 15th April in the determination year.

## PART 5

### Notification and publication of determined admission arrangements

#### **Manner of notification of admission arrangements**

**18.**—(1) This regulation prescribes for the purposes of section 88C(4) the manner in which, and the time by which, an admission authority must notify the appropriate bodies of determined admission arrangements.

(2) For the purposes of this regulation and regulation 22 “appropriate bodies” has the meaning given in section 88F(3) and—

- (a) for the purposes of section 88F(3)(d) the prescribed admission authorities are those falling within regulation 12(2)(d) and (4);
- (b) for the purposes of section 88F(3)(e) the religious bodies or persons are those set out in regulation 12(2)(i) and (7); and
- (c) for the purposes of section 88F(3)(g) the prescribed persons are those persons falling within regulation 12(2)(g) and (h) and (6).

(3) The admission authority must, within 14 days after the date on which they determined the admission arrangements—

- (a) give notice in writing of the admission arrangements to—
  - (i) each of the appropriate bodies set out in section 88F(3)(a) to (f),
  - (ii) any person falling within section 88F(3)(g) who responded to any consultation carried out under section 88C(2), and
  - (iii) any person whom the admission authority were required to consult by virtue of regulation 14; and
- (b) place a copy of the determined admission arrangements on their website (if they have one).

(4) Where the determined admission arrangements differ in any respect from the proposed arrangements on which the appropriate bodies were consulted (save any difference which relates solely to exempt arrangements within the meaning of regulation 13(3)), the notification required by paragraph (3) must include a complete copy of the admission arrangements as determined.

(5) Notification under paragraph (3)(a) may be effected by the transmission of the notification in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

(6) Arrangements published under sub-paragraph (3)(b) must be displayed on the website until such time as they are replaced by arrangements published under regulation 22(2)(b) or by arrangements determined for the following academic year.



### **Publication by local authority**

**19.**—(1) No later than 1st May in the determination year, a local authority must publish the following information on their website, and in a newspaper circulating in the locality of the local authority, namely—

- (a) the extent to which admission arrangements have been determined for schools, Academies, city technology colleges and city colleges for the technology of the arts in the area of the local authority;
- (b) the fact that copies of the determined admission arrangements are available on the local authority's website and are available for inspection at the offices of the local authority and at such other places and by such other means as the local authority considers appropriate;
- (c) a statement about parents' right of objection to the adjudicator explaining—
  - (i) the effect of section 88H(3) (*reference of objections to the adjudicator by parents*),
  - (ii) that a parent may only refer an objection if the objection falls within regulation 27 and the parent falls within the relevant paragraph of regulation 26, and
  - (iii) the operation of regulation 28 in relation to objections falling within regulation 27(b);
- (d) the address to which such objection should be referred;
- (e) the date by which it must be referred; and
- (f) the fact that further information about the determined arrangements and the ability of a parent to object may be obtained from the local authority including the address and telephone number for such contact.

(2) Where determined admission arrangements are varied under regulation 21, the local authority must publish a copy of the varied admission arrangements on their website within 14 days of —

- (a) the variation, or
- (b) in the case of admission arrangements for a school for which the local authority is not the admission authority, receipt of notification under regulation 22(3).

### **Additional publication by admission authority**

**20.**—(1) This regulation applies in any case where—

- (a) the admission arrangements for a school determined by an admission authority include pre-existing selection arrangements;
- (b) the determined admission number for any relevant age group at a school is lower than the current indicated admission number for that age group.

(2) Within 14 days after the date on which the admission authority determined the admission arrangements they must publish the following information in a newspaper circulating in the locality served by the school—

- (a) in a case falling within paragraph (1)(a)—
  - (i) the names of the admission authority and of the school or schools in respect of admission to which the provision for selection applies, and
  - (ii) the fact that admission arrangements have been determined which make provision for selection and a statement summarising the effect of the selection arrangements;
- (b) in a case falling within paragraph (1)(b)—
  - (i) the names of the admission authority and of the school or schools in respect of which an admission number lower than the current indicated admission number has been determined for any relevant age group,

- (ii) the current indicated admission number relating to each relevant age group to which the admission authority had regard when determining a lower admission number,
  - (iii) the determined admission number relating to each relevant age group which is lower than the current indicated number for that age group, and
  - (iv) the admission authority's reasons for determining an admission number which is lower than the current indicated admission number; and
- (c) in either case—
- (i) the fact that parents living in the relevant area are able to refer an objection about the selection arrangements or, as the case may be, the admission number to the adjudicator,
  - (ii) the address to which, and the date by which, such an objection must be sent to the adjudicator, and
  - (iii) the fact that further information about the selection arrangements or, as the case may be, the admission number, or about parents' right of objection may be obtained from the admission authority, including an address and telephone number for such contact.
- (3) An admission authority must in addition provide to any person without charge on request—
- (a) a copy of the selection arrangements or, as the case may be, details of the assessment of the school's current indicated admission number relating to any relevant age group for which a lower admission number has been determined, and of any other parts of the admission arrangements that are material to them; and
  - (b) an explanation of the relevant area that applied to the admission authority's consultation on the admission arrangements.

## PART 6

### Variation and alteration of determined admission arrangements

#### Variation of admission arrangements

**21.—**(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 its admission arrangements to the extent that such variation is necessary to give effect to an admission forum protocol.

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

- (a) the School Admissions Code; or
- (b) Part 3 of SSFA 1998 (*school admissions*).

(4) For the purposes of this regulation an "admission forum protocol" means an arrangement of an admission forum which aims to ensure that children who have no school place are offered a place at a suitable school as quickly as possible.

### **Notification of variation of admission arrangements**

**22.**—(1) This regulation prescribes for the purposes of section 88E(8) and (9) the manner in which, and the time by which, an admission authority must notify the appropriate bodies of admission arrangements varied—

- (a) under section 88E(6), or
- (b) under regulation 21.

(2) The admission authority must, within 14 days after the date on which the admission arrangements are varied—

- (a) give notice in writing to each of the appropriate bodies set out in section 88F(3)(a) to (f), and to any person falling within section 88F(3)(g) who responded to any consultation carried out under section 88C(2); and
- (b) display a copy of the determined admission arrangements on their website (if they have one).

(3) The notification required by paragraph (2) must include a complete copy of the admission arrangements as varied.

(4) Notification under paragraph (2)(a) may be effected by the transmission of the notification in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

(5) Arrangements published under sub-paragraph (2)(b) must be displayed on the website until such time as they are replaced by further arrangements published under this regulation or by arrangements determined for the following academic year.

### **Restriction on alteration of admission arrangements following establishment or expansion**

**23.**—(1) For the purposes of section 88G(1)(d) the prescribed condition is that the proposals are not for the establishment of, or alteration to, a new foundation or voluntary school which is to provide education suitable only to the requirements of persons above compulsory school age.

(2) Where section 88G(2) applies in relation to a school, the admission arrangements for the initial period and the period prescribed by paragraph (3) are to be the arrangements which fall to be implemented in accordance with the proposals or in accordance with the proposals as modified.

(3) For the purposes of section 88G(2)(a) the prescribed number of school years is two (“the prescribed period”).

(4) Section 88C does not apply to admission authorities for schools to which section 88G applies, for school years falling within the initial period and the prescribed period.

(5) For the purposes of section 86(5) to (5B) the admission arrangements of all schools to which section 88G applies that fall to be implemented in accordance with the proposals (with or without modifications) are, during the initial period and the prescribed period, to be treated as having been determined under section 88C.

(6) For the purposes of section 88G(5) the prescribed circumstances are that there has been a major change in circumstances since the date when the admission arrangements were implemented.

(7) At any time before the end of the prescribed period, upon the making of a reference by the admission authority (pursuant to section 88G(5) and paragraph (6)), the adjudicator may vary the admission arrangements.

(8) Where the adjudicator decides that the admission arrangements must be varied pursuant to paragraph (7), that decision is binding until the end of the prescribed period.

## PART 7

### Reference of objections to adjudicator

#### Objections by appropriate persons

**24.**—(1) This regulation prescribes the objections that, by virtue of section 88H(2)(b), may not be referred under subsection 88H(2) by an appropriate person.

(2) An objection may not be referred under that subsection—

- (a) if the substance of the objection is to seek 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 to 109 (*altering the school's admission arrangements so that it no longer has selective admission arrangements*); or
- (b) in any case where the body seeking to make an objection are the governing body of a community or voluntary controlled school, responsibility for determining the admission arrangements for the school not having been delegated to them under section 88(1)(a)(ii), and the objection is to—
  - (i) the admission arrangements for any other community or voluntary controlled school in the relevant area (as defined in section 88F(4)) for which the local authority are the admission authority, or
  - (ii) the admission arrangements for the school for which they are the governing body, unless the substance of the objection relates to the determination of any admission number for that school.

(3) For the purposes of section 88H(6)(b) and this regulation “appropriate person” includes any person falling within regulation 12(2)(h).

#### Time within which objection must be referred

**25.**—(1) Subject to paragraph (2) an objection may not be referred under section 88H (2) or (3) unless it is received by the adjudicator on or before 31<sup>st</sup> July in the determination year.

(2) An objection which is received after the date specified in paragraph (1) must be regarded as properly referred if it was not reasonably practicable for the objection to have been received earlier than the time it was received.

#### Parents who are eligible to refer an objection

**26.** For the purposes of section 88H(3)(a) the description of a parent who may refer an objection relating to admission arrangements under that subsection is an individual who is—

- (a) where the objection falls within regulation 27(a), the parent of a child of compulsory school age receiving primary education;
- (b) where the objection falls within regulation 27(b), the parent of a child who has attained the age of two and is receiving primary education; or
- (c) where the objection falls within regulation 27(c)—
  - (i) in the case of an objection to arrangements for admission for sixth form education<sup>(9)</sup>, the parent of a child who is, or will be, eligible to apply to the school whose admission arrangements are the subject of the objection, and

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(9) See section 98A of the School Standards and Framework Act 1998, inserted by section 153 of the Education and Skills Act 2008, for the meaning of “sixth form education”.

- (ii) in any other case, the parent of a child who has attained the age of two but is not above compulsory school age;

and, in the case of the matters referred to in either paragraph (a) or (b), is resident in the relevant area for consultation relating to those admission arrangements.

### **Objections that may be referred by parents**

**27.** For the purposes of section 88H(3)(b) the description of objection that may be referred under that subsection is—

- (a) an objection relating to pre-existing selection arrangements;
- (b) an objection relating to an admission number for any relevant age group which is lower than the indicated admission number for that age group; or
- (c) an objection that any aspect of a school's admission arrangements does not comply with any mandatory requirements in the School Admissions Code or Part 3 of SSFA 1998 (*school admissions*).

### **Condition to be met before determination of objections by parents**

**28.—**(1) In relation to objections that fall within regulation 27(b), the condition in paragraph (2) must be satisfied before the adjudicator is required to determine an objection referred by a parent under section 88H(3).

(2) The condition is that not less than ten parents who satisfy the requirement in regulation 26(b) have referred objections under section 88H(3) (or one or more such objections jointly) which—

- (a) are about the same admission arrangements; and
- (b) raise the same or substantially the same issue.

## **PART 8**

### **Consideration of determined admission arrangements by the adjudicator: supplementary**

#### **Information to be provided by the admission authority**

**29.** Where the adjudicator is carrying out his functions under sections 88H to 88J and makes a request to the admission authority for any of the information set out in Schedule 3 to these Regulations, the admission authority must provide the requested information to the adjudicator.

#### **Steps to be taken by the admission authority pending adjudicator's decision**

**30.—**(1) This regulation prescribes for the purposes of section 88H(5)(c) and section 88I(6) the steps which may be taken by an admission authority where—

- (a) an objection has been referred to the adjudicator and has not yet been determined, or
- (b) where the adjudicator is considering the authority's admission arrangements under section 88I(4)(a) or (5)(a) and has not yet made a decision in the case.

(2) The admission authority must, within 14 days, notify whichever of the governing body and the local authority are not the admission authority of the fact that the admission arrangements are being considered by the adjudicator.

### **Publication of reports**

**31.**—(1) This regulation prescribes for the purposes of section 88K(4)(b) the manner in which a report by the adjudicator required by section 88K(3) must be published.

(2) A copy of the report must, within 14 days after the date when the adjudicator’s decision was made —

- (a) be displayed on the adjudicator’s website;
- (b) be published in a newspaper circulating in the locality served by the school;
- (c) be provided to all the persons whom the admission authority were required to consult by virtue of section 88C and regulation 12(2)(a) to (f) and (i) (or would have been required to consult but for the operation of regulation 15); and
- (d) in the case of an objection under section 88H, be provided to the parties to the objection.

(3) Publication required by paragraph (2)(c) and (d) may be effected by the transmission of the report in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

### **Power to alter arrangements following adjudicator’s decision**

**32.**—(1) This regulation applies where—

- (a) the adjudicator has made a decision under section 88H(4) to uphold an objection to admission arrangements to any extent, or a decision under section 88I(4)(b) or (5)(b) that admission arrangements do not conform with the requirements of Part 3 of SSFA 1998; and
- (b) a relevant admission authority reasonably believe that the arrangements which they have determined are, so far as material—
  - (i) the same as those arrangements, or
  - (ii) sufficiently similar for the same decision to have been made against them had they been considered by the adjudicator.

(2) In a case where this regulation applies, the relevant admission authority may revise their admission arrangements by making such alterations as are necessary to achieve consistency with the decision, and may determine their arrangements in that revised form.

(3) Any such determination may only be made if—

- (a) such alterations are made within two months of the date on which the report was published in accordance with regulation 31; and
- (b) the relevant authority have informed each admission authority whom they were required to consult under section 88C and regulation 12 (or would have been required to consult but for the operation of regulation 15) about the admission arrangements which they are seeking to revise under this regulation.

(4) In this regulation “relevant admission authority” means an admission authority who, before they determined the admission arrangements that they wish to revise, were required to consult under section 88C (or would but for regulation 15 have been required so to consult) the admission authority in respect of which the decision was made.

### **Restriction on alteration of admission arrangements following adjudicator’s decision**

**33.**—(1) For the purposes of section 88L(2) the required number of school years is two.

(2) Section 88C does not apply to admission authorities for schools to which section 88L applies, in respect of admission arrangements that are part of the adjudicator’s decision—

- (i) to uphold an objection,

- (ii) that admission arrangements do not conform with the requirements of Part 3 of SSFA 1998, or
- (iii) to make a modification pursuant to section 88J(3).

(3) For the purposes of section 88L(6) the prescribed circumstances are that there has been a major change in circumstances since the beginning of the period prescribed by paragraph (1).

(4) On the making of a reference by the admission authority (pursuant to section 88L(6) and paragraph (3)), the adjudicator may vary the admission arrangements.

(5) Where the adjudicator decides that the admission arrangements must be varied his decision is binding on the admission authority.

## PART 9

### Amendment of Regulations

#### **Amendment of the Education (Infant Class Sizes) (England) Regulations 1998**

**34.**—(1) The Education (Infant Class Sizes) (England) Regulations 1998(**10**) are amended as follows.

(2) For the words “qualified teacher” wherever they appear substitute the words “school teacher”(11).

#### **Amendment of the Information as to Provision of Education (England) Regulations 2008**

**35.**—(1) The Information as to Provision of Education (England) Regulations 2008(**12**) are amended as follows.

(2) In regulation 3 for the definition of “application” substitute—

““application” means a preference expressed by a parent in accordance with section 86(1), or by a parent or a child in accordance with section 86A(1)(c) or (d) of the School Standards and Framework Act 1998, as to the school at which education is to be provided for the child;”.(13)

#### **Amendment of the Education (Proportion of Selective Admissions) Regulations 1998**

**36.**—(1) The Education (Proportion of Selective Admissions) Regulations 1998(**14**) are amended as follows.

(2) After regulation 1 insert—

“**1A.** These Regulations do not apply in England”.

#### **Amendment of the Education (Aptitude for Particular Subjects) Regulations 1999**

**37.**—(1) The Education (Aptitude for Particular Subjects) Regulations 1999(**15**) are amended as follows.

(2) After regulation 1 insert—

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(10) [S.I. 1998/1973](#), as amended by [S.I. 2006/3409](#).

(11) See section 4 of the SSFA 1998, as amended by Schedule 21 of the Education Act 2002 ([c. 32](#)), for the definition of “school teacher”.

(12) [S.I. 2008/4](#).

(13) Section 86 is amended by paragraph 54 of Schedule 1 to the Education and Skills Act 2008; and section 86A is inserted by section 150 of that Act.

(14) [S.I. 1998/2229](#).

(15) [S.I. 1999/258](#). These regulations are amended in relation to England only by [S.I. 2006/3408](#).

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“1A. These Regulations do not apply in England.”.

3rd December 2008

*Sarah McCarthy-Fry*  
Parliamentary Under Secretary of State  
Department for Children, Schools and Families



## SCHEDULE 1

Regulation 3

## Regulations revoked

<i>Regulations revoked</i>	<i>References</i>
The Education (Determination of Admission Arrangements) Regulations 1999 <b>(16)</b>	<a href="#">S.I. 1999/126</a>
The Education (Determination of Admission Arrangements) (Amendment) (England) Regulations 2002	<a href="#">S.I. 2002/2896</a>
The Education (Admission of Looked After Children) (England) Regulations 2006	<a href="#">S.I. 2006/128</a>
The Education (Aptitude for Particular Subjects) (Amendment) (England) Regulations 2006	<a href="#">S.I. 2006/3408</a>
The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007	<a href="#">S.I. 2007/496</a>
The Education (Determination of Admission Arrangements) (Amendment) (England) Regulations 2007	<a href="#">S.I. 2007/497</a>
The Education (Determination of Admission Arrangements) (Amendment) (No.2) (England) Regulations 2007	<a href="#">S.I. 2007/3009</a>
The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) (Amendment) Regulations 2008	<a href="#">S.I. 2008/1258</a>

## SCHEDULE 2

Regulation 12

## Rabbinic Authorities

<i>Appropriate Authority</i>	<i>Rabbinic School</i>	<i>Postcode</i>
The Birmingham Congregation	Hebrew King David Primary School, Birmingham	B13 8EY
The Chief Rabbi of the United Hebrew Congregations of the British Commonwealth/ United Synagogue	Brodetsky Primary School, Leeds	LS17 7TN
	Hertsmere Jewish Primary School, Radlett,	WD7 7LQ
	Ilford Jewish Primary School, Ilford	IG6 1LZ
	Independent Jewish Day School, London	NW4 2AH
	JFS, Harrow	HA3 9TE
	King David High School, Manchester	M8 5DY

(16) These Regulations are amended to disapply them from Wales by [S.I. 2006/174 \(W.25\)](#).

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<i>Appropriate Authority</i>	<i>Rabbinic School</i>	<i>Postcode</i>
Elector Rabbis of the Jewish Secondary Schools Movement	King David High School, Liverpool	L15 6UZ
	King David Infants School, Manchester	M8 6DR
	King David Junior School, Manchester	M8 5DJ
	King David Primary School, Liverpool	L15 6XH
	King Solomon High School, Ilford,	IG6 3HB
	Mathilda Marks-Kennedy Jewish Primary School, London	NW7 3RT
	Michael Sobell Sinai School, Harrow	HA3 9UD
	Moriah Jewish Day School, Pinner	HA5 1JF
	North Cheshire Jewish Primary School, Heald Green	SK8 4RZ
	North West London Jewish Day School, London	NW6 7PP
	Rosh Pinah Jewish Primary School, Edgware	HA8 8TE
	Simon Marks Jewish Primary School, London	N16 6PD
	Wolfson Hillel Primary School, London	N14 4LG
	Yavneh College, Borehamwood	WD6 1HN
Golders Green Beth Hamedrash Jewish Community Day Schools Advisory Board	Hasmonean High School, London	NW14 1NA
	Hasmonean Primary School, London	NW4 2PD
The Lubavitch Foundation	Menorah Primary School, London	NW11 9SP
	Clore Shalom Primary School, Shenley	WD7 9BL
	Clore Tikvah Primary School, Ilford	IG6 2JN
	Akiva School, London	N3 2SY
Machzikei Hadass Synagogue, Manchester	Lubavitch Ruth Lunzer Girls Primary School, London	N16 5RP
	Beis Yaakov High School, Salford	M7 4FF
The Union of Orthodox Hebrew Congregations	Yesoiday Hatorah School, Manchester	M25 0JW
	Avigdor Hirsch Torah Temimah Primary School, London	NW2 6RJ
	Menorah Foundation School, Edgware	HA8 0QS
	Pardes House Primary School, London	N3 1SA
	Yesodey Hatorah Senior Girls School, London	N16 6UB

<i>Appropriate Authority</i>	<i>Rabbinic School</i>	<i>Postcode</i>
Va'ad HaChinuch, London	Beis Yaakov Primary School, London	NW9 6NQ
Va'ad Manchester	HaChinuch, Broughton Jewish Cassel Fox Primary School, Salford	M7 4RT
	Bury and Whitefield Jewish Primary School, Bury	BL9 8JT
The Dean of Gateshead Talmudical College	Manchester Mesivta School, Prestwich	M25 0PH

## SCHEDULE 3

Regulation 29

## Information to be provided by the admission authority

1. The following information must be provided by an admission authority if requested by the adjudicator.
2. Details of the school's pupil numbers for the past five years, including for each year the admission number, the number admitted, the number of applications and the number of appeals.
3. Projected applicant numbers for the school for the next three years.
4. In the case of a school whose admission number is being considered by the adjudicator:
  - (a) where the school is a primary school, details of all primary schools within a three-mile radius of the school in question, and
  - (b) where the school is a secondary school, details of all secondary schools within a five-mile radius of the school in question, including the name of each such school, whether the school was consulted on the arrangements under consideration and if so, whether it responded.
5. A copy of the admission booklet for parents.
6. A copy of the complete determined admission arrangements for the school in question.
7. A copy of the latest Net Capacity Assessment form, completed in accordance with the guidance, Assessing the Net Capacity of Schools.
8. A copy of the minutes of the meeting at which the admission authority determined the admission arrangements.
9. If the admission authority is not the governing body of the school, the date on which the determined admission number was notified to the governing body.
10. The dates on which the objection or, as the case may be the adjudicator's consideration of the admission arrangements under section 88I, was discussed by the governing body of the school and where such discussions have been held, a copy of minutes of those discussions.
11. Whether those who were originally consulted on the admission arrangements have been notified about the objection or, as the case may be the adjudicator's consideration of the admission arrangements under section 88I, and where they have, a copy of any responses to those notifications.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under sections 1, 88B, 88C, 88D, 88E, 88F, 88G, 88H, 88I, 88K, 88L, 92, 100, 102 and 138(7) of the School Standards and Framework Act 1998 (SSFA 1998) and section 29(3) of the Education Act 1996 and come into force on 31<sup>st</sup> December 2008 in relation to admission arrangements for maintained schools for the academic year 2010-2011.

They are largely consolidating Regulations, which revoke (or disapply from England) and re-enact with some amendments: the Education (Proportion of Selective Admissions) Regulations 1998, the Education (Aptitude for Particular Subjects) Regulations 1999 and one set of amending Regulations, the Education (Determination of Admission Arrangements) Regulations 1999 and three sets of amending Regulations, the Education (Admission of Looked After Children) (England) Regulations 2006, and the School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 and one set of amending Regulations.

They also make a number of changes consequent on the changes to SSFA 1998 made by the Education and Skills Act 2008.

Parts 2 and 3 prescribe matters in relation to the content of the admission arrangements determined by admission authorities each year: the calculation of admission numbers (**regulation 4**); the proportion of selective admissions (**regulation 5**); the prescribed subjects for selection by aptitude (**regulation 6**); and the priority to be given to looked after children (children in the care of a local authority) (**regulations 7 to 11**).

Part 4 prescribes matters in relation to the procedure for determining admission arrangements: persons who must be consulted in relation to proposed admission arrangements (**regulation 12** – this is a new provision, persons to be consulted having previously been set out in SSFA 1998); matters to which consultation is to relate (**regulation 13**); additional consultation of trade unions representing teachers at the school in the case of a proposed increase in admission number (**regulation 14** – this is a new provision); circumstances in which consultation is not required (**regulation 15** – a new provision that admission authorities need only consult every 3 years where their admission arrangements have not changed); the manner of consultation (**regulation 16**); and the time for consultation (**regulation 17** – this is an amended provision introducing a time table for consultation requiring that all consultations allow at least 8 weeks for consultees to respond and, for consultations in relation to admission arrangements for the academic year 2011/2012 onwards start no earlier than 1<sup>st</sup> November).

Part 5 prescribes matters in relation to the notification of determined admission arrangements: the manner of notification (**regulation 18**); publication of information by the local authority (LA) (**regulation 19** – this is amended to include a new requirement that all LAs publish a notice explaining parents' right to object to the adjudicator); and additional publication by admission authorities in certain cases (**regulation 20**).

Part 6 prescribes certain matters in relation to the variation or alteration of admission arrangements after they have been determined: variations which do not need to be referred to the adjudicator (**regulation 21**); notification of varied arrangements (**regulation 22**); and restrictions on alteration following the establishment or expansion of a school (**regulation 23**).

Part 7 prescribes matters in relation to the reference to the adjudicator of objections to admission arrangements: objections that may be referred by bodies such as LAs and schools (**regulation 24**); time limits for objections (**regulation 25**); parents who are eligible to object (**regulation 26**); the

types of objection which can be made by parents (**regulation 27**); and the condition to be met before an objection can be made by parents to a lower than indicated admission number (**regulation 28**).

Part 8 deals with the adjudicator's consideration of determined admission arrangements both where objections are referred to him and where he considers the arrangements under his new power in section 88H SSFA 1998: information to be provided to the adjudicator by admission authorities (**regulation 29**); the requirement that the admission authority notify whichever of the LA or governing body are not the admission authority where the adjudicator is considering the admission arrangements for a school (**regulation 30** – this is a new provision); publication of the adjudicator's reports (**regulation 31**); power for other schools to alter their arrangements following an adjudicator's decision (**regulation 32**); and restrictions on the alteration of admission arrangements following an adjudicator's decision (**regulation 33**).

Part 9 makes amendments to other instruments: in the Education (Infant Class Sizes) (England) Regulations 1998 the words “qualified teacher” are replaced with the words “school teacher” wherever they appear, to reflect the same change made to sections 1 and 4 of the SSFA by the Education Act 2002 (**regulation 24**); and in the Information as to Provision of Education (England) Regulations 2008 the definition of “application” is amended to reflect changes made to section 86 of, and the insertion of section 86A into, the SSFA 1998 (**regulation 35**). The Education (Proportion of Selective Admissions) Regulations 1998 and the Education (Aptitude for Particular Subjects) Regulations 1998 are amended so that they no longer apply in England (**regulations 36 and 37** respectively).