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STATUTORY INSTRUMENTS

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**2012 No. 8**

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

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(1) 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 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.

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(1) 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.

(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)(2) (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.

## **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

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

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(3) or section 109(4);
  - (b) section 88C is excluded by section 103(1) and (2)(5) from applying to their determination (making or abandonment of provision for selection which constitutes a prescribed alteration).

### **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

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

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

(5) 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).

- (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)(6), 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.

(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)(7) 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(8) to 109(9) (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;

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

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

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

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

(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)(**10**), 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.

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

**25.** Where the adjudicator is carrying out functions under sections 88H and 88I(**11**) 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.

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

**(11)** 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).