

## 14. Admissions

This chapter explains the legislation relating to school admissions and the responsibilities of the governing body and the LA in each area of admissions law.

### Legislative Framework

1. [The School Standards and Framework Act 1998](#) (“the 1998 Act”) together with the regulations listed at the end of this chapter, set out the legislative framework for school admissions. In addition, a new statutory Schools Admissions Code came into force on 15 July 2009. This imposes requirements and gives guidance to LAs and other admission authorities (see paragraph 7 below) on the law, and on the guiding principles for administering school admissions. All those involved with administering admission arrangements must act in accordance with the Code.

2. Where mandatory requirements are imposed by the Code (or by statutory provisions), the Code states that the relevant bodies “**must**” comply with the particular requirement or provision. Where the Code prohibits practices or criteria, the Code states they “**must not**” be used. The Code also includes good practice guidelines which the relevant bodies “**should**” follow. However, where the guidelines refer to practices or criteria normally regarded as poor practice, the Code states that they “**should not**” be followed.

3. A separate statutory Code on School Admission Appeals also came into force on 15 July 2009

4. This section of this Guide gives only very basic information on some key aspects of admissions. It must be read in conjunction with the School Admissions Code and the School Admissions Appeals Code, the relevant sections of the 1998 Act and the associated admission Regulations and the other legislation listed below. The governing bodies of voluntary aided and foundation schools will need to pay particular attention to the Codes as they are the admission authorities for their schools.

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### Responsibility for Admissions to School

5. Parents of children between the ages of 5 and 16 must ensure that their children receive suitable full-time education and LAs are responsible for ensuring that parents carry out this duty. A child reaches compulsory school age at the beginning of the term following his or her fifth birthday. LAs must also ensure that there are sufficient school places for the children in their area and take steps to address any shortfalls.

6. Admission authorities are responsible for all aspects of school admission including determining of admission arrangements and deciding admission applications. For community and voluntary controlled schools the LA is the admission authority and is responsible for all aspects of school admissions (except where the LA has delegated this responsibility to the

governing body with their agreement). The governing bodies of such schools must, by law, implement the LA's decisions on individual applications and act in accordance with the LA's admission arrangements. If they refuse, the LA can refer the matter to the Welsh Ministers, who may direct the governing body to comply with the LA's decision under Section 496 or Section 497 of the Education Act 1996. However, the governing body can appeal to an independent appeal panel where the LA has decided to admit a pupil who has been permanently excluded from two or more schools.

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7. In foundation and voluntary aided schools the governing body is the admission authority. The governing body may delegate the functions relating to admission arrangements to a committee (but not an individual) that will administer the admission process as determined by the governing body. It is considered good practice to appoint the head teacher to an admissions committee, but head teachers have no individual role in admissions and cannot act in place of the governing body in determining the school's admission policy, or in deciding on the admission of any individual child.

### **Consultation on Proposed Admission Arrangements**

8. Admission authorities in an area (including governing bodies of community and voluntary controlled schools with delegated responsibility for admissions) must consult with each other, asking for views and comments on all aspects of their proposed admission arrangements, including admission numbers, before determining the arrangements they intend to use. The Code on Admissions gives details of the bodies that LAs and other admission authorities must consult. All maintained school admission authorities are encouraged to establish the views of parents before determining their admission arrangements.

9. Consultation on proposed admission arrangements should take place within an area called "the relevant area" (The Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999). The LA determines the relevant area after appropriate consultation with the other admission authorities in the locality and any neighbouring LAs. There may be more than one relevant area within the boundary of the LA. LAs should consult on and review their relevant areas every two years.

10. Consultation on admission arrangements should be completed by 1 March in the school year which begins two years before the school year in which the arrangements are to apply. After this, admission authorities must determine their admission arrangements by 15 April, notifying all those with whom they have consulted. This may be done by e-mail. It is not sufficient for admission authorities to put any proposed or determined arrangements on their website alone.

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11. LAs are required to consult every year. A foundation or voluntary aided school (or the governing body of a community or voluntary controlled school with delegated responsibility for admissions) is only required to consult every third year if:

- the governing body is proposing the same admission arrangements as determined within the previous 2 determination years; or
- no objection has been made to the Welsh Ministers about the admission arrangements proposed by the governing body in any of the preceding five years.

### **Notification and Publication of Information**

12. An admission authority must send written notification, within 14 days of determining its admission arrangements, to all those with whom it was required to consult. Where the admission authority has determined an admission number for a relevant age group which is lower than the current indicated number for that age group (see paragraph 25-28) or where admission arrangements provide for partial selection of pupils by ability (see paragraph 34), these must be published in a local newspaper within 14 days of the determination. The details published must include an explanation of parents' right to object to the Welsh Ministers about such selection arrangements or lower admission number. The admission authority should consult parents and other interested parties about the intention to determine a lower number.

### **Objections to School Admissions**

13. Except where the substance of the objection is to seek an alteration to the admission arrangements which can only be made by way of publishing statutory proposals (for example, the introduction of pupil banding or single sex admission) the governing body of a foundation or voluntary aided school can object to the Welsh Ministers about any aspect of the admission arrangements of other admission authorities within their own relevant consultation area. The governing bodies of community and voluntary controlled schools may not object to the admission arrangements of other schools that are their own admission authority within the relevant consultation area unless the County and Voluntary Controlled School have delegated authority for admissions arrangements. They may object to the Welsh Ministers about the admission number determined by the LA for their school, but not to any other aspect of the LA's admission arrangements for community and voluntary controlled schools.

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14. The Welsh Ministers may also hear objections from Parents who are eligible to object (see paragraph 2.18 of the Code on Admissions) in the case of 'pre-existing' selection arrangements, i.e. arrangements for selection by ability which have been in place since the beginning of the 1997/98 school year. This right of objection does not however, apply to pupil banding or admissions to sixth forms. Eligible parents may also object to a proposed admission number for any year group which is set lower than that indicated by the capacity assessment method set out in the guidance document "Measuring the Capacity of Schools in Wales" (see paragraph 2.17 of the School Admissions Code ).

## **Informing Parents: Publication of Admission Arrangements**

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

## **Variation to Determined Admission Arrangements**

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

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

In the case of a, b and c above, the admission authority must first notify the proposed variation to the consultees and then refer the matter to the Welsh Ministers for determination. This process is not required in relation to point d.

## **Parental Preference**

17. LAs have a specific duty to make arrangements enabling parents to express a preference for the school they would like their child to attend and to give reasons for that preference. LAs and the governing bodies of all schools must comply with an expressed preference unless certain specified circumstances apply. In most cases, preferences are refused because the school is full, or, in legal terms, because complying with the preference would prejudice the provision of efficient education or the efficient use of resources (which includes circumstances where to admit would be incompatible with the duty to meet class-size limits).

Other circumstances in which LAs and governing bodies can refuse to comply with an expressed preference are where:

- the child has been permanently excluded from two or more schools; and the latest exclusion took place within the preceding two years ;or
- the arrangements for admission are based wholly on ability or aptitude and compliance with the parental preference would therefore not be feasible.

N.B: Since the 2004–5 school year, if the expressed preference is for a school which has a religious character, the admission authority has been unable to refuse admission simply because the parent does not meet their denominational criteria if there are places available at the school.

### **Common Date of Return and Common Date of Offer Issue**

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

### **Timetable for Consultation, Determination and Publication of Admissions Arrangements**

<b>Latest date</b>	<b>Action</b>
1 March each year	All admission authorities complete consultation on proposed admission arrangements for individual schools (should allow at least one month for consultation).
15 April each year	Admission authorities determine admission arrangements.
Within 14 days of determination date	Admission authorities notify details of determined admission arrangements to LAs and admission authorities who were consulted. Admission authorities publish details in local press of an admission number set lower than that indicated by the capacity and of partially selective admission arrangements.
Closing date required by LA	Each governing body provides information to the LA for composite prospectus entry.

1 October each year or no later than six weeks before the date by which parents may express a preference.	LA publishes composite prospectus.
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### Admission Forums

19. All LAs must have an Admission Forum. Core members of the Forum include members and/or officers of the LA; representatives of community and voluntary controlled schools, representatives of voluntary aided and foundation schools; parent governor representatives and those nominated by the relevant Church in Wales and Catholic dioceses. In addition the core members may nominate other members who represent the interests of any section of the local community.

20. Admission Forums have a key role in ensuring a fair admissions system. Forums allow admission authorities and other key interested parties to get together to discuss the effectiveness of local admission arrangements, seek agreements on how to deal with difficult admission issues and advise admission authorities on ways in which their arrangements can be improved. Their tasks include considering existing and proposed admission arrangements and how well they serve the interests of local parents and children, suggesting improvements to admissions processes where appropriate. They should also review the comprehensiveness and accessibility of guidance for parents. Forums must act in accordance with the Code and admission authorities must have regard to any advice offered by the Forum.

21. Forums are also responsible for seeking to promote agreements on arrangements for dealing with a range of difficult issues, including how to ensure that potentially vulnerable children or those arriving outside the normal admission round are effectively provided for in admission arrangements.

### Looked-After Children (LAC)

22. Regulations require admission authorities to give first priority to looked-after children (LAC) in their oversubscription criteria. There are some permitted exceptions to this:

- Admission authorities for schools with a designated religious character (faith schools) **may** give first priority to all LAC, whether or not they are of the faith. As a minimum they **must** give priority to LAC of their faith above any other children of their faith, then to LAC not of their faith ahead of others not of their faith.
- Schools with pre-existing arrangements for partial selection must give first priority to LAC who meet the ability or aptitude criteria before other children who have been selected on that basis. LAC

who have not been allocated a place on the basis of their ability or aptitude have higher priority than all other such children.

- Schools which select by pupil banding must give first priority to LAC within each band over other children eligible for a place in that band.

23. Outside the normal admissions round, the Education (Admission of Looked after Children) (Wales) Regulations 2009 place a duty on admission authorities to admit looked after children where an application for admission is made by the corporate parent on their behalf. However, before making an application, the corporate parent (i.e. the Welsh LA responsible for looking after the child) must consult with the relevant admissions authority (and in the case of a looked after child permanently excluded from two or more schools, the governing body of the relevant community or voluntary controlled school) and make every effort to ensure the appropriateness of the named school in the light of the child's background and needs.

### **Infant Class Sizes**

24. Subject to certain limited exceptions, infant classes of 5 to 7-year-olds (i.e. reception, years 1 and 2) may not contain more than 30 pupils with a single teacher. Admission authorities may refuse to admit a child on the grounds that to do so would cause "class size prejudice". Class size prejudice arises where, if the child were admitted to the school, the admission authority could only comply with the infant class size legislation by taking qualifying measures, i.e. building an extra classroom and/or employing an additional teacher. However, in relation to the normal year of entry (i.e. Reception year) such prejudice cannot be said to arise unless the school's admission number would be exceeded. In relation to years 1 and 2 admission authorities should not normally refuse admission on the grounds of class size prejudice unless the school's admission number would be exceeded.

### **Admission Numbers**

25. [The Education Act 2002](#) removed the need for schools to specify the minimum number of pupils that they would admit in the normal year of admission by means of "standard numbers" that could only be changed by publishing statutory proposals. Instead, admission authorities will rely on a published admission number which is directly related to the capacity of a school and is determined by the authority following local consultation on admission arrangements.

26. A school must have an admission number for each "relevant" age group. A relevant age group is defined in law as "an age group in which pupils are or will normally be admitted to the school in question". It may be necessary for some schools to have more than one admission number. For example, where a secondary school operates a sixth form and admits other pupils from other schools at age 16, an admission number will be required for Year 12 as well as for year 7. Admission numbers must refer in each case to

pupils to be admitted to the school for the first time. They should not include pupils transferring from earlier age groups. The one exception is in the case of a primary school making nursery provision, where the admission number will be the number of all children to be admitted to the Reception Year, as children do not automatically transfer from nursery to reception if the school is oversubscribed.

27. Admission numbers should be set with regard to the capacity assessment for the school. The capacity of the school is the number of pupil places available. This is calculated by the assessment method set out in guidance document Measuring the Capacity of Schools in Wales. Pupils should not be admitted above the published number unless exceptional circumstances apply.

28. An admission authority can determine an admission number for a relevant age group lower than that indicated by the capacity formula, but if they do so, they must publish information for parents who may object to this lower number.

### Admission Appeals

29. Admission authorities are required to establish independent appeal panels: parents can appeal to such a panel against refusal of admission to a school. For applications for a place in a school's sixth form, both the parent and the young person have the right of appeal against refusal of a place.

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In the case of foundation and voluntary aided schools the duty to establish an appeal panel falls on the governing body as the admission authority. For community and voluntary controlled schools it is the responsibility of the LA, even where the governing body has delegated responsibility for admissions. Although the governors of foundation and voluntary aided schools are responsible for establishing admission appeal panels, the panel membership is independent from the school's governing body that made the original decision to refuse a place, as well as from the LA which maintains the school.

Where a panel finds in favour of the parent the decision is binding on the admission authority. Where the admission authority is the LA it is also binding on the governing body of the school concerned.

30. [The Admission Appeals Arrangements Regulations](#) specify how panels should be constituted and set out an admission authority's duty to advertise for lay members at least every three years. Details of appeal arrangements are set out in the new School Admission Appeals Code.

31. The governors of foundation and voluntary aided schools can make joint appeal arrangements with their LA and with other such schools. Recruitment and training of appeal panel members is the responsibility of the admission authority.

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32. The governing body of a community or voluntary controlled school has the right of appeal against an LA decision to admit a child to its school who

has been twice permanently excluded in a two-year period beginning on the date on which the latest of these exclusions took place. Further guidance on these appeals is set out in the Appeals Code.

## Waiting Lists

33. Admission authorities are required to maintain a waiting list for oversubscribed schools, details of which are set out in the School Admissions Code. Places which become available must be offered to those on the waiting list in line with the school's published admission arrangements. If new applicants have a higher priority under the oversubscription criteria, they should be ranked higher than those who have been on the list for some time. Placing a child's name on a waiting list does not affect the parent's right of appeal against an unsuccessful application.

## Partial Selection

34. The 1998 Act prevents the introduction of new academic selection except in the limited circumstances of sixth forms and to introduce fair banding arrangements. Existing partial selection on the basis of academic ability can continue provided it was in place at the beginning of the 1997–8 school year.

## Nursery Admissions

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35. The legislation that applies in relation to admissions to primary and secondary schools generally does not apply to nursery schools or to children admitted to the nursery class of a maintained school. However, amendments made by the Education Act 2002 clarify that the governing body is responsible for taking decisions about admissions to the nursery class in the case of foundation and voluntary aided schools, and in those community and voluntary controlled schools with delegated responsibility for admissions. The LA is responsible for deciding admissions to nursery classes in other community and voluntary controlled schools.

36. The admission authority should determine separate admission arrangements for the nursery class. A place in a nursery class does not guarantee admission to the reception class. The infant class size limit applies only to classes at maintained schools containing pupils of whom the majority will attain the ages of five, six and seven during the course of the school year. Therefore, the infant class size limit will not apply to nursery classes where the majority of pupils attending that class are below the age of five years.

## The Law

[Children Act 1989](#)

[Designation of Schools Having a Religious Character \(Wales\) Order 2007](#)

[Disability Discrimination Act 1995](#)

[Disability Discrimination Act 2005](#)

[Disability Rights Commission Code of Practice](#)

[Education Act 1996](#)  
[Education Act 2002](#)  
[Education and Inspections Act 2006](#)  
[Education \(Admission Appeals Arrangements\) \(Wales\) Regulations 2005](#)  
Education (Admission Appeals Arrangements) (Amendment) (Wales) Regulations 2009  
Education (Admission of Looked After Children) (Wales) Regulations 2009  
Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999  
[Education \(Admission Forums\) \(Wales\) Regulations 2003](#)  
[Education \(Determination of Admission Arrangements\) \(Wales\) Regulations 2006](#)  
Education (Infant Class Size) (Wales) (Amendment) Regulations 2009  
[Education \(Infant Class Size\) \(Wales\) Regulations 1998](#)  
[Education \(Objections to Admission Arrangements\) \(Wales\) Regulations 2006](#)  
[Education \(School Information\) \(Wales\) Regulations 2002](#)  
[Education \(School Teachers Qualifications\) \(Wales\) Regulations 2004](#)  
[Education \(Start of Compulsory School Age\) Order 1998](#)  
[Equality Act 2006](#)  
[Government of Maintained Schools \(Wales\) Regulations 2005](#)  
[Human Rights Act 1998](#)  
[Immigration \(European Economic Area\) Regulation 2006](#)  
[Measuring the Capacity of Schools in Wales](#)  
[New School \(Admissions\) \(Wales\) Regulations 2006](#)  
Placement of Children and Miscellaneous Amendments (Wales) Regulations 2007  
[Race Relations \(Amendment\) Act 2000](#)  
[Race Relations Act 1976](#)  
[Race Relations Act 1976 \(Statutory Duties\) Order 2001](#)  
[School Standards and Framework Act 1998](#)  
[Sex Discrimination Act 1975](#)

## Guidance

Key documents providing more detailed guidance on admission arrangements include:

School Admissions Code  
School Admission Appeals Code

Both these documents can be accessed through the WAG website ([www.wales.gov.uk](http://www.wales.gov.uk)).

Copies of the Codes are available from:

School Organisation and Admissions Branch  
Department for Children, Education Lifelong Learning and Skills  
Welsh Assembly Government  
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Cathays Park

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