



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART III

#### SCHOOL ADMISSIONS

#### CHAPTER I

#### ADMISSION ARRANGEMENTS

#### *Admission appeals*

#### 94 Appeal arrangements: general.

(1) A [<sup>F1</sup>local authority] shall make arrangements for enabling [<sup>F2</sup>the appropriate person] to appeal against—

[<sup>F3</sup>(za) in a case where the [<sup>F1</sup>local authority] are the admissions authority, any decision made by or on behalf of the authority refusing a child admission to a school,]

(a) [<sup>F4</sup>any other decision] made by or on behalf of the authority as to the school at which education is to be provided for [<sup>F5</sup>a child] in the exercise of the authority's functions, other than a decision leading to or embodied in a direction under section 96 [<sup>F6</sup>or 97A] (directions for admission), and

(b) [<sup>F7</sup>in a case where the governing body of a community or voluntary controlled school maintained by the authority are the admission authority], any decision made by or on behalf of the governing body refusing [<sup>F8</sup>a child] admission to the school.

[<sup>F9</sup>(1A) A [<sup>F1</sup>local authority] shall make arrangements for enabling [<sup>F10</sup>the appropriate person in relation to] a child who has been admitted to a community or voluntary controlled school maintained by the authority to appeal against any decision made by or on behalf

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of the governing body refusing permission for the child to enter the school's sixth form.]

- (2) The governing body of a foundation or voluntary aided school shall make arrangements for enabling [<sup>F11</sup>the appropriate person] to appeal against any decision made by or on behalf of the governing body refusing [<sup>F12</sup>a child] admission to the school.
- [<sup>F13</sup>(2A) The governing body of a foundation or voluntary aided school shall make arrangements for enabling [<sup>F14</sup>the appropriate person in relation to] a child who has been admitted to the school to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form.]
- [<sup>F15</sup>(2B) In this section, “the appropriate person”, in relation to a child, means—
- (a) in the case of a decision about sixth form education for the child any of the following—
    - (i) the child;
    - (ii) a parent of his;
    - (iii) the child and a parent of his, acting jointly;
 (but subject to regulations made under subsection (5A));
  - (b) in any other case, a parent of the child.]
- (3) Joint arrangements may be made under subsection (2) [<sup>F16</sup>or (2A)] by the governing bodies of two or more foundation or voluntary aided schools maintained by the same [<sup>F1</sup>local authority].
- (4) A [<sup>F1</sup>local authority] and the governing body or bodies of one or more foundation or voluntary aided schools maintained by the authority may make joint arrangements consisting of—
- (a) such of the arrangements made by the authority in pursuance of subsection (1) [<sup>F17</sup>or (1A)] as the authority may determine; and
  - (b) arrangements made by the governing body or bodies in pursuance of subsection (2) [<sup>F17</sup>or (2A)].
- [<sup>F18</sup>(5) An appeal pursuant to any arrangements made under this section shall be to an appeal panel constituted in accordance with regulations.
- (5A) Regulations may make provision about the making of appeals pursuant to such arrangements, including provision—
- (a) as to the procedure on such appeals,
  - [<sup>F19</sup>(aa) in cases where separate appeals are made by a parent and a child against a decision about sixth form education for the child, for the appeals to be joined, or otherwise for securing that no more than one appeal against the decision is proceeded with;]
  - (b) for the payment by the [<sup>F1</sup>local authority] of allowances to members of an appeal panel, and
  - (c) as to the grounds on which an appeal panel may, in the case of an appeal to which subsection (5B) applies, determine that a place is to be offered to the child concerned.
- (5B) This subsection applies to any appeal against a decision made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section.

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(5C) Regulations made by virtue of subsection (5A)(b) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.]

(6) The decision of an appeal panel on an appeal [<sup>F20</sup>pursuant to arrangements under this section] shall be binding on—

- (a) the [<sup>F1</sup>local authority] or the governing body by whom or on whose behalf the decision under appeal was made, and
- (b) in the case of a decision made by or on behalf of a [<sup>F1</sup>local authority], the governing body of a community or voluntary controlled school at which the appeal panel determines that a place should be offered to the child in question.

[<sup>F21</sup>(6A) In this section, any reference to a decision about sixth form education for a child is a reference to a decision—

- (a) made in relation to a preference expressed in accordance with arrangements made under section 86A(1) as to where education should be provided for the child, or
- (b) refusing permission for the child to enter the sixth form of the school to which he has been admitted.]

<sup>F22</sup>(7) .....

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F2** Words in s. 94(1) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(a), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F3** S. 94(1)(za) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(b), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F4** Words in s. 94(1)(a) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(c)(i), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F5** Words in s. 94(1)(a) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(c)(ii), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F6** Words in s. 94(1)(a) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 51(1), 188(3)**; S.I. 2006/3400, art. 3(d)
- F7** Words in s. 94(1)(b) substituted (8.1.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 43(4), 188(3)**; S.I. 2006/3400, art. 2(a); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F8** Words in s. 94(1)(b) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(d), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F9** S. 94(1A) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(2)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F10** Words in s. 94(1A) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(3), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)

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- F11** Words in s. 94(2) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(4)(a)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F12** Words in s. 94(2) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(4)(b)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F13** S. 94(2A) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(3)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F14** Words in s. 94(2A) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(5)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F15** S. 94(2B) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(6)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F16** Words in s. 94(3) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(4)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F17** Words in s. 94(4)(a)(b) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(5)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F18** S. 94(5)-(5C) substituted for s. 94(5) (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), **ss. 50**, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F19** S. 94(5A)(aa) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(7)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F20** Words in s. 94(6) substituted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(6)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F21** S. 94(6A) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(8)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F22** S. 94(7) repealed (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), Sch. 1 para. 66, **Sch. 2**; S.I. 2008/3077, art. 4(h)(i) (with art. 6)

#### Modifications etc. (not altering text)

- C1** S. 94 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, **8**
- C2** S. 94 modified (temp. from 22.4.1999) by S.I. 1999/1064, **reg. 5**
- C3** S. 94 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**  
S. 94 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**
- C4** S. 94 excluded (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 36(5)(b)(10)**, 162(2) (with s. 159)
- C5** S. 94 applied (with modifications) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C6** S. 94 excluded (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 2 para. 1**
- C7** S. 94 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C8** S. 94 excluded (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 2 para. 1**
- C9** S. 94 excluded (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 2 para. 1**

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## 95 Appeals relating to children to whom section 87 applies.

(1) Nothing in section 94(1) or (2) requires any arrangements to be made for enabling [<sup>F23</sup>the appropriate person] to appeal against a decision—

- (a) made by or on behalf of the admission authority for a maintained school, and
- (b) refusing [<sup>F24</sup>a child] admission to the school,

in a case where, at the time when the decision is made, section 87(2) applies to the child.

[<sup>F25</sup>(1A) In subsection (1), “the appropriate person”, in relation to a child, has the same meaning as in section 94.]

(2) Where a [<sup>F1</sup>local authority] are the admission authority for a community or voluntary controlled school, the authority shall make arrangements for enabling the governing body of the school to appeal against any decision made by or on behalf of the authority to admit to the school a child to whom, at the time when the decision is made, section 87(2) applies.

[<sup>F26</sup>(2A) Subsection (2) does not apply in relation to a decision made by or on behalf of a [<sup>F1</sup>local authority] in England to admit to a school a child who is looked after by [<sup>F27</sup>such an authority] (provision for references to the adjudicator in relation to such a decision being made by section 95A).]

[<sup>F28</sup>(3) An appeal by the governing body pursuant to arrangements made under subsection (2) shall be to an appeal panel constituted in accordance with regulations.

(3A) Regulations may make provision about the making of appeals pursuant to arrangements under subsection (2), including provision—

- (a) requiring prescribed information to be given to governing bodies in prescribed circumstances,
- (b) as to the procedure on such appeals,
- (c) for the payment by the [<sup>F1</sup>local authority] of allowances to members of an appeal panel, and
- (d) as to the matters to which an appeal panel is to have regard in considering an appeal.

(3B) Regulations made by virtue of subsection (3A)(c) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.]

(4) The decision of an appeal panel on an appeal made pursuant to arrangements under subsection (2) shall be binding on the [<sup>F1</sup>local authority] and the governing body.

### Textual Amendments

**F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))

**F23** Words in s. 95(1) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), Sch. 1 para. 67(2)(a); S.I. 2008/3077, art. 5(e); S.I. 2009/784, art. 3(d)

**F24** Words in s. 95(1)(b) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), Sch. 1 para. 67(2)(b); S.I. 2008/3077, art. 5(e); S.I. 2009/784, art. 3(d)

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- F25** S. 95(1A) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 1 para. 67(3)**; S.I. 2008/3077, **art. 5(e)**; S.I. 2009/784, **art. 3(d)**
- F26** S. 95(2A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 48(1)**, 188(3); S.I. 2006/3400, **art. 3(a)**
- F27** Words in s. 95(2A) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1, Sch. 2 para. 10(11)**
- F28** S. 95(3)-(3B) substituted for s. 95(3) (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 9** (with **ss. 210(8)**, 214(4)); S.I. 2002/2952, **art. 2** (with **art. 3**, **Sch. para. 3**); S.I. 2005/1395, **art. 4**, **Sch.** (with **art. 5(4)**)

#### **Modifications etc. (not altering text)**

- C10** S. 95 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, **reg.6**.
- C11** S. 95 applied (with modifications) (18.10.1999) by S.I. 1999/2666, **reg. 8**, **Sch. paras. 1(c)**, **2-8**.  
S. 95 applied (with modifications) (1.9.1999) by S.I. 1999/2800, **reg. 7**, **Sch. paras. 1**, **2-8**.
- C12** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), **regs. 1(1)**, **9**, **Sch. para. 1(b)**
- C13** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), **regs. 1(1)**, **9**, **Sch.** (with **reg. 2(2)**)
- C14** S. 95(2) restricted (29.3.1999) by S.I. 1999/1016, **art. 6**, **Sch. 4 paras. 1**, **8**
- C15** S. 95(2) excluded (W.) (22.4.2009) by The Education (Admission of Looked After Children) (Wales) Regulations 2009 (S.I. 2009/821), **regs. 1(3)**, **9(1)**

#### **[<sup>F29</sup>95A] References relating to looked after children to whom section 87(2) applies**

- (1) This section applies where—
  - [<sup>F30</sup>(a) the admission authority for a community or voluntary controlled school in England is a local authority,]
  - (b) a decision is made by or on behalf of the authority to admit to the school a child who, at the time when the decision is made, is looked after by a local authority in England and to whom (at that time) section 87(2) applies.
- (2) The [<sup>F31</sup>admission authority] must give notice of the decision to the governing body of the school.
- (3) The governing body of the school may, within the period of seven days beginning with the day on which they are notified of the decision, refer the matter to the adjudicator.
- (4) A reference under subsection (3) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (5) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (4)—
  - (a) the decision to admit the child to the school shall cease to have effect, but
  - (b) the adjudicator may determine that another maintained school in England is to be required to admit the child.
- (6) A determination under subsection (5)(b) may only be made with the agreement of the local authority who look after the child.
- (7) A determination under subsection (5)(b) may not be made if—
  - (a) the child is permanently excluded from the other school, or

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- (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (8) If the adjudicator determines under subsection (5)(b) that another school is to be required to admit the child—
- (a) the admission authority for the school shall admit the child to the school, and
  - (b) if the admission authority are not the governing body of the school, the admission authority shall give notice in writing to the governing body and head teacher of the school of the adjudicator's decision.
- (9) Regulations may make provision—
- (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under this section;
  - (b) requiring an admission authority for a maintained school to provide information which—
    - (i) falls within a prescribed description, and
    - (ii) is requested by the adjudicator for the purposes of any such determination.]

#### Textual Amendments

**F29** S. 95A inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 48(2), 188(3); S.I. 2006/3400, art. 3(a)

**F30** S. 95A(1)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(12)(a)

**F31** Words in s. 95A(2) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(12)(b)

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