



School Standards and Framework Act 1998

1998 CHAPTER 31

PART III

SCHOOL ADMISSIONS

CHAPTER I

ADMISSION ARRANGEMENTS

Parental preferences

86 Parental preferences.

- (1) A local education authority shall make arrangements for enabling the parent of a child in the area of the authority—
 - (a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions, and
 - (b) to give reasons for his preference.
- (2) Subject to [^{F1}subsections (3) and (3A)] and section 87 (children excluded from two or more schools), a local education authority and the governing body of a maintained school shall comply with any preference expressed in accordance with arrangements made under subsection (1).

[^{F2}(2A) Arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school; but nothing in this section requires the admission authority for a maintained school for which a child's parent has expressed a preference to offer the child admission to the school if, in accordance with a scheme adopted or made by virtue of section 89B, the child is offered admission to a different school for which the parent has also expressed a preference.]

Status: Point in time view as at 19/12/2002. This version of this provision has been superseded.

Changes to legislation: School Standards and Framework Act 1998, Section 86 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The duty imposed by subsection (2) does not apply—
- (a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources; [^{F3}or]
 - (b) ^{F4}
 - (c) if the arrangements for admission to the preferred school—
 - (i) are wholly based on selection by reference to ability or aptitude, and
 - (ii) are so based with a view to admitting only pupils with high ability or with aptitude,
 and compliance with the preference would be incompatible with selection under those arrangements.
- [^{F5}(3A) In relation to a preference expressed by a parent as to the school at which he wishes secondary education suitable to the requirements of pupils who are over compulsory school age to be provided for his child, the duty imposed by subsection (2) also does not apply if the relevant selection arrangements are wholly based on selection by reference to ability or aptitude and compliance with the preference would be incompatible with selection under those arrangements.
- (3B) In subsection (3A) “the relevant selection arrangements”, in relation to a school, means—
- (a) the arrangements for admission to the school for secondary education suitable to the requirements of pupils who are over compulsory school age, or
 - (b) those arrangements and the arrangements for entry to the sixth form of children who have been admitted to the school;
- and references in this subsection to entry to the sixth form of children who have been admitted to a school shall be construed in accordance with section 94(7).]
- (4) For the purposes of subsection (3)(a) prejudice of the kind referred to in that provision may arise by reason of measures required to be taken in order to ensure compliance with the duty imposed by section 1(6) (duty of local education authority and governing body to comply with limit on infant class sizes).
- [^{F6}(5) No prejudice shall be taken to arise for the purposes of subsection (3)(a) from the admission to a maintained school in a school year of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year; but this subsection does not apply if the conditions set out in subsection (5A) are met in relation to the school and the school year.
- (5A) Those conditions are—
- (a) that the school is one at which boarding accommodation is provided for pupils; and
 - (b) that the determination under section 89 by the admission authority of the admission arrangements which are to apply for that year includes the determinations mentioned in paragraphs (a) and (b) of section 89A(2).
- (5B) Where the conditions set out in subsection (5A) are met in relation to a maintained school and a school year, no prejudice shall be taken to arise for the purposes of subsection (3)(a) from either of the following—
- (a) the admission to the school in that year as boarders of a number of pupils in a relevant age group which does not exceed the number determined under

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section 89 as the number of pupils in that age group that it is intended to admit to the school in that year as boarders;

- (b) the admission to the school in that year otherwise than as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year otherwise than as boarders.]

- (6) [^{F7}Where—

- (a) the admission arrangements for two or more maintained schools provide for co-ordinated admissions on the part of those schools, and
(b) they are approved by the Secretary of State for the purposes of this subsection, they shall have effect in relation to each of those schools despite anything in subsection (2).]

- (7) Where the arrangements for the admission of pupils to a maintained school provide for applications for admission to be made to (or to a person acting on behalf of) the governing body of the school, a parent who makes such an application shall be regarded for the purposes of this section as having expressed a preference for that school in accordance with arrangements made under subsection (1).

- (8) The duty imposed by subsection (2) in relation to a preference expressed in accordance with arrangements made under subsection (1) shall apply also in relation to—

- (a) any application for the admission to a maintained school of a child who is not in the area of the authority maintaining the school, and
(b) any application made by a parent as mentioned in section 438(4) or 440(2) of the ^{M1}Education Act 1996 (application for a particular school to be named in a school attendance order);

and references in [^{F8}subsections (3) and (3A)] to a preference and a preferred school shall be construed accordingly.

- (9) Where admission arrangements for a school [^{F9}, or arrangements such as are mentioned in subsection (3B), provide for all pupils selected under the arrangements] to be selected by reference to ability or aptitude, those arrangements shall be taken for the purposes of this section to be wholly based on selection by reference to ability or aptitude, whether or not they also provide for the use of additional criteria in circumstances where the number of children in a relevant age group who are assessed to be of the requisite ability or aptitude is greater than the number of pupils which it is intended to admit to the school in that age group.

Textual Amendments

- F1** Words in s. 86(2) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#)) (as amended (6.3.2003) by S.I. 2003/606, [arts. 1, 2](#))
- F2** S. 86(2A) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#)) (as amended (6.3.2003) by S.I. 2003/606, [arts. 1, 2](#))
- F3** Word in s. 86(3)(a) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(4\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#)) (as amended (6.3.2003) by S.I. 2003/606, [arts. 1, 2](#))
- F4** S. 86(3)(b) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 215(2), 216, [Sch. 4 para. 3\(4\)\(b\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#))

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- F5** S. 86(3A)(3B) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(5\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F6** S. 86(5)-(5B) substituted for s. 86(5) (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 47(1), 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F7** S. 86(6) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 215(2), 216, [Sch. 4 para. 3\(6\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F8** Words in s. 86(8) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(7\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F9** Words in s. 86(9) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(8\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)

Modifications etc. (not altering text)

- C1** S. 86 modified (temp. from 22.4.1999) by S.I. 1999/1064, [reg. 3](#)
 Ss. 86-87 restricted (29.3.1999) by S.I. 1999/1016, [art. 6](#), [Sch. 4 paras. 1, 2\(1\)](#)
 S. 86 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(c\), 2-8](#).
 S. 86 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), [Sch. paras. 1, 2-8](#).
- C2** S. 86(1) applied (with modifications) (1.9.1999) by S.I. 1999/1812, [reg. 8](#), [Sch. 2 para. 5\(b\)](#)
- C3** S. 86(1)(2) excluded (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. [36\(5\)\(a\)](#) (10), 162(2) (with s. 159)

Marginal Citations

- M1** 1996 c. 56.

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