



Education and Skills Act 2008

2008 CHAPTER 25

PART 5

MISCELLANEOUS AND GENERAL

CHAPTER 2

MISCELLANEOUS

School admissions

150 Sixth form admissions etc

After section 86 of the School Standards and Framework Act 1998 (c. 31) (parental preferences) insert—

“86A Preferences relating to sixth-form education: [F¹local authority] arrangements

- (1) A [F¹local authority] shall make arrangements for enabling—
- (a) a child in the authority's area to express a preference as to the school at which he wishes sixth form education to be provided for him in the exercise of the authority's functions,
 - (b) a parent of such a child to express a preference as to the school at which he wishes sixth form education to be so provided for his child,
 - (c) a relevant child to express a preference as to the school at which he wishes education other than sixth form education to be provided for him in the exercise of the authority's functions, and
 - (d) a parent of such a child to express a preference as to the school at which he wishes such education to be so provided for his child,

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and, in each case, for enabling the person expressing the preference to give reasons for his preference.

- (2) In subsection (1), “relevant child”, in relation to a [F¹local authority] and any education, means a child in the authority's area who—
 - (a) has ceased to be of compulsory school age, or
 - (b) will have ceased to be of compulsory school age before the education in question is provided for him.
- (3) Arrangements made under subsection (1) shall allow—
 - (a) a person who is to be able to express a preference under any of paragraphs (a) to (d) of that subsection to express preferences for more than one school;
 - (b) preferences to be expressed, in relation to a child, by both the child and a parent of his.
- (4) Where—
 - (a) 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, and
 - (b) a child (whether or not in the area of the authority maintaining the school) or his parent makes such an application,
 that person shall be regarded for the purposes of this Chapter as having expressed a preference for that school in accordance with arrangements made under subsection (1).

**86B Duty in relation to preferences expressed under section 86A:
admission authorities of maintained schools**

- (1) Subject to subsections (2) and (4) and section 87, the admission authority for a maintained school shall comply with any preference expressed in accordance with arrangements made under section 86A(1).
- (2) The duty imposed by subsection (1) does not apply if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources.
- (3) Subsections (5) to (5B) of section 86 apply for the purpose of determining whether any prejudice should be taken to arise for the purposes of subsection (2), but with the substitution of references to that subsection for references to subsection (3)(a) of section 86.
- (4) The duty imposed by subsection (1) does not apply in a case where a preference is expressed in relation to sixth form education if—
 - (a) the relevant selection arrangements for the preferred school are wholly based on selection by reference to ability or aptitude, and
 - (b) compliance with the preference would be incompatible with selection under those arrangements.
- (5) Where the relevant selection arrangements for a school 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 subsection (4)
 - (a) to be wholly based on selection by reference to ability or aptitude whether

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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.

- (6) In this section “the relevant selection arrangements”, in relation to a school, means—
- (a) the arrangements for admission to the school for sixth form education, or
 - (b) those arrangements and the arrangements for entry to the sixth form of children who have been admitted to the school.”

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 \(S.I. 2010/1158\)](#), **Sch. 2 para. 15(2)**

Commencement Information

- I1** S. 150 in force at 26.1.2009 for E. by [S.I. 2008/3077](#), **art. 5(a)** (with [art. 6](#))
- I2** S. 150 in force at 31.3.2009 for W. by [S.I. 2009/784](#), **art. 3(a)** (with [art. 4](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)