

# Discussion Paper on a Regulatory Framework for School Enrolment

## Respondent's Details:

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This response is made on behalf of:

The Catholic Primary Schools Management Association (CPSMA)

## **CPSMA response to Discussion Paper on a Regulatory Framework for School Enrolment.**

### **1.0. Introduction**

- 1.01.** The Catholic Primary School Management Association (CPSMA) is a recognized school management organisation. Boards of Management of Catholic primary schools are members of CPSMA.
- 1.02.** CPSMA welcomes the invitation to respond to the discussion paper and would like to record its appreciation to the Minister and the Department of Education & Skills (“The DES”) for the formulation of a detailed, thought provoking and highly considered Discussion Paper on a Regulatory Framework for School Enrolment (“the discussion paper”)
- 1.03.** While a regulatory framework setting out requirements, procedures and prescribed timelines regarding the content and operation of enrolment policies is welcome, any such framework must be sufficiently flexible in order to take account of the requirements of schools under different patronage, in different locations etc. i.e. “a one size fits all” will not work although certain key principles should apply to all schools regardless of Patronage, location etc. In addition it is most welcome that the discussion paper acknowledges that the regulatory framework should not impose nationwide solutions for issues confined to certain areas.
- 1.04.** CPSMA conducted an online survey regarding the enrolment discussion paper and a summary of the main findings are contained in **Appendix A**. 84% of schools that responded confirmed that the school enrolment policy has never been challenged either informally or formally. This suggests that the vast majority of schools accommodate all those who apply for enrolment. It can be presumed that the remaining percentage is largely accounted for by schools that were oversubscribed.
- 1.05.** The issue for many schools is not the enrolment policy nor the implementation of it but rather changed demographics. A lack of proper planning and inadequate provision of school places meant that certain schools were oversubscribed. It must be remembered that a regulatory framework drawn up in isolation of such factors will result in Boards of Management (BoMs) continuing to grapple with issues outside their control. This raises the issue of planning locally and nationally for school accommodation which should be improved by the DES GIS system.
- 1.06.** It is clear from the discussion paper that there are many legitimate competing interests and thus any framework document will have to strike a balance, for example schools must accommodate parental choice but also be diverse/socially inclusive.
- 1.07.** The issue of ensuring that all schools are socially inclusive requires input from *inter alia* those who have operated inter school arrangements. They can assist in the understanding of how in practical terms this is achieved across schools and how an application form can address the issue in a sensitive way which respects rights yet ensures that all schools obtain the necessary information to ensure social inclusion. While the experience of those who have operated such systems is vital, the issue is in no way limited to interschool cooperation. Inter school cooperation must apply to all schools not just to those schools that are oversubscribed. Some of the comments received as part of CPSMA’s online survey were telling with regard to the issue of social inclusion<sup>i</sup>.
- 1.08.** The DES 2008 audit of enrolment policies related to newcomer pupils, pupils from the travelling community and children with special educational needs. It must also be appreciated that social stratification and ghettoisation of the existing population are equally problematic. It tends to be a case of “middle class flight” rather than merely “white flight.”
- 1.09.** The statement<sup>ii</sup> that the existing system and equality legislation supports the right of denominational schools to give priority to children of a particular faith and that it is not proposed to change this, is welcomed. The system is also supported by International law. CPSMA agrees that where such schools decide to make a portion of their school places available to applicants who are not of that faith, it may be desirable to provide statutory support for such arrangements. In terms of legislative support it is important that this should enable rather than penalise schools. It is also envisaged that there may be occasions when pupils who wish to go to a school of a particular faith are not in a position to access same. In such cases provision should be made for how these children are accommodated in schools

of another patronage i.e. the support should not be delimited to certain forms of patronage. Such legislative support must also take account of changing circumstances e.g. changing social norms, areas of population growth/decline etc.

- 1.10. CPSMA is in the process of assembling guidelines for schools so that parents who are not of the faith of the school (or of any faith) will be clear regarding what the school can and cannot provide for, in terms of how the school's ethos permeates the school day. Members have also been asked for feedback as to how meaningful provision/accommodation is made for children of other/no faith during religious instruction.
- 1.11. Rule 65(5) of the Rules for National Schools and Circular 8/94 prohibit schools from canvassing pupils. Presumably there is a requirement to update same. From the online survey conducted by CPSMA, one of the key concerns of schools regarding interschool cooperation is the fear that pupils will be lost to other schools in the area.<sup>iii</sup> The number of pupils in a school is obviously not resource neutral. If there is an increase in the number of pupils in a school, there is additional funding from the DES including funding for additional classrooms when necessary. Equally a decrease in numbers leads to a decrease in funding.
- 1.12. CPSMA is of the view that parents should have available to them enhanced information regarding all schools in the vicinity including special schools. The method of informing parents of all options in a composite document could be by a range of options e.g. a special portal on the DES website/in the local newspaper/parish newsletter/each school's website/a leaflet drop to each household at a certain time of the year etc. Obviously asking a school to refer to other schools on its website will require a certain degree of trust which might be difficult to achieve as per what is stated above. If however this became the norm and applied uniformly, schools may be prepared to operate such a system. In such a scenario it is envisaged that each school would prepare its own information piece.
- 1.13. The framework document should contain a suite of template documentation including template enrolment policies (with the necessary flexibility to take account of patronage requirements etc), template application forms, details of the information to be prescribed by the Minister under S.19 of the Education Welfare Act, guidance regarding the matters to be addressed in inter school cooperation, the letters to be sent to parents when a decision to refuse enrolment is made etc. Obviously the suite of documents will have to be adapted by each Patron.
- 1.14. Consideration could be given to the inspectorate having a role in the matter. An initial appeal could perhaps be to the Patron or to an inspector. The inspectorate could also potentially have a role in relation to assessing whether schools were socially inclusive. The role of the Education Welfare Officer in this regard may be worthy of consideration. If so it would require a legislative basis.

## **2.00. Legal Framework**

- 2.01. The discussion paper sets out the legislative framework and it is not intended to replicate same. The Constitutional rights of parents must be factored into any discussion regarding a regulatory framework. Article 42.1 of the Constitution acknowledges the family as the natural educator of the child and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children. Article 42.3.1 states that the State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State or to any particular type of school designated by the State Article 42.4 provides that the State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation. Article 44.2.4 states that legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

- 2.02.** In the context of consideration of primary legislation/introduction of regulations, it is important at the outset to reiterate<sup>iv</sup> that many pieces of primary legislation have not been commenced or acted upon e.g. S.28 of the 1998 Education Act, the Education for Persons with Special Educational Needs Act (EPSEN), 2004, S.19 of the Education (Welfare) Act 2000 etc. In the absence of the commencement/acting on these pieces of primary legislation it is perhaps difficult to quantify to what extent other primary/secondary legislation is required. A review of legislation/regulations currently in existence/to be commenced should be the starting point for consideration before any additional measures are contemplated.
- 2.03.** Before a decision is made regarding the legislative basis for the regulatory framework it will be necessary to examine in depth the areas where primary and secondary legislation is envisaged. Clearly primary legislation will be required in relation to inter school co-operation and any amendment to S.29. In addition schools will not want to be subjected to judicial review proceedings on the basis that the regulatory framework is *ultra vires* the legislation.

### **3.00. Guiding Considerations**

**3.01.** It is agreed that

- 3.01.01** there is a need to encourage best practice and consistency in the content and operation of admission policies
- 3.01.02.** only those aspects of enrolment policies and practices where a common or national approach is desirable should be regulated and otherwise to provide the maximum discretion to schools. As stated<sup>v</sup> *“It is proposed that any legislative changes in the area of enrolment would seek to maintain and support the current position whereby decision making resides with the Board of Management to the greatest extent possible”*. It is vital to respect the principle of subsidiarity.
- 3.01.03.** there are certain common requirements that would apply generally
- 3.01.04.** a range of measures to ensure compliance should be introduced
- 3.01.05.** intervention by a party external to the BoM should be confined to particular circumstances such as where a Board is not complying with the requirements of the new statutory framework and only in circumstances where there is a legislative basis for this.
- 3.01.06.** a mechanism that requires a school to provide a place for a child where no place at all is made available to that child should be provided. However this is strictly subject to the caveat that it must be feasible and the rights of all must be taken into account. See below regarding the right to refuse enrolment.

**3.02.** In addition CPSMA is of the view that existing legislation should be commenced/acted on e.g. EPSEN Act, S.19 Education Welfare Act, S.28 Education Act etc.

- 3.03.** While there could potentially be an issue regarding using S.33 to make regulations, CPSMA is in broad general agreement that it is necessary to make provision for
- 3.03.01.** Drafting and publishing requirements
- 3.03.02.** Characteristic spirit, as determined by the Patron
- 3.03.03.** Financial contributions to schools
- 3.03.04.** Enrolment of pupils with special educational needs
- 3.03.05.** Oversubscription

### **4.00. Information for Parents**

**4.01.** The need for information covers those parents of pupils already in the school, prospective parents in the locality who are familiar with the society in which they live; information for prospective parents who have no previous connection with the school or the locality or the catchment area. Some method whereby parents can ascertain how to access this information should be established. CPSMA agrees with the suggestion<sup>vi</sup> that regulations providing BoMs to undertake some level of consultation with local school community when

drafting or changing admissions policy should avoid being too onerous or create administrative burdens. 70% of principals in primary schools are teaching principals and other than the teacher nominees, all other members of the BoM act on a voluntary basis. If the administrative burden becomes too great, the current system will buckle under the pressure.

- 4.02.** CPSMA's on line survey confirms that in 96% of cases the schools' enrolment policy had been reviewed since 2009 and in 53.8% of cases a copy of the enrolment policy has issued to parents.
- 4.03.** In February 2011 CPSMA issued guidance to its schools regarding the preparation/review of enrolment policies which is attached in **Appendix B**. This guidance stated *inter alia* that the policy should clearly state how, when and by what means an application should be made. It also stated that a BoM must make a decision on the application within 21 days of receipt of the application and that the criteria to be applied when the school is oversubscribed should be clearly stated. It also indicated that schools with special classes/units need to explicitly state how places in these classes/units will be allocated.
- 4.04.** The discussion paper suggests that if a decision is made to refuse an application for enrolment the regulations might provide that the notification to the applicant should:
- provide the reasons for refusal, including details as to why the applicant failed to meet the oversubscription conditions
  - inform the parent of the right of appeal and
  - provide details of how such an appeal can be made.
- 4.05.** CPSMA's February 2011 guidance stated that the policy should clearly state how, when and by whom parents are informed of the right of appeal. CPSMA issued a draft template for admissions/enrolment procedures in Catholic National Schools in 2008<sup>vii</sup> which referred to the requirement that a parent be informed in writing of the entitlement to appeal where there has been a decision to refuse enrolment.

## **5.00. Interschool Co-operation**

- 5.01.** The discussion paper suggests that there should be increased inter school co-operation in a given area to ensure that every child gets a school place. CPSMA is in agreement with this and also agrees that this will require primary legislation.<sup>viii</sup> As is the current practice in certain areas there should be a common application system agreed by the schools concerned with perhaps facilitation from the DES and/or the Patron's office. CPSMA's online survey confirmed that the majority of those schools that responded are in favour of interschool cooperation.
- 5.02.** The lack of interschool co-operation between schools under different patronage at primary could be explained in terms of the Constitutional rights of parents e.g. there could be an issue if parents opt for denominational schooling.
- 5.03.** Schools who do not want inter school co-operation perhaps do so 'in the interests of watching enrolment numbers in our own school so as not to lose members of staff if our numbers fell.<sup>ix</sup> There are also concerns regarding honesty and fairness from all participants.
- 5.04.** As is stated in the discussion paper, the success of inter school co-operation is contingent on the readiness of all schools in an area to participate. Undoubtedly it is easier to achieve this cooperation where the schools concerned are of the same ethos and patronage. Due consideration needs to be given to the working out in practice of this proposal in situations where schools concerned are of different patronage.
- 5.05.** The importance of empowering schools and not imposing solutions on them cannot be overstated. Therefore the suggestion<sup>x</sup> that "in a new regulatory framework provision could be made for the Minister to have a power to direct, if required, particular schools to co-operate in relation to the admission process and to also define the terms of any such co-operation process" needs careful consideration. It is important to empower local communities to come to their own solutions and in addition a school's status cannot be changed without the consent of the Patron.

**5.06.** The suggestion<sup>xi</sup> that consideration be given to allowing the Minister the explicit authority to impose certain conditions in relation to enrolment policy when granting consent to a change of status, requires further discussion as there is a need to ensure that any such conditions are fair and transparent and would not disproportionately affect a particular type of school.

## **6.00. Operation of the Enrolment Process**

**6.01. Timescales for enrolment:** The suggestion<sup>xii</sup> of the provision of a regulation which specifies the earliest date for the commencement of the enrolment process for the following school year is certainly worthy of consideration. This would benefit newcomers, avoid waiting lists and lead to greater consistency. It would also deal with the potential breach of S.19 of the Education Welfare Act. S.19 requires that not later than 21 days after a parent has provided information (as prescribed by the Minister<sup>xiii</sup>) the Board of Management of the school concerned shall make a decision in respect of the application and inform the parent in writing of that decision.

**6.02. Notification requirements:** It is agreed that notification requirements must be balanced with costs. Regulations could make provision for how to get the enrolment policy, the application form, date from which applications are accepted and the closing date as suggested in the discussion paper.

**6.03. Application process:** It is agreed that schools should only seek relevant information and that standard timescales should be applied. The designation of relevant information may vary depending on patronage. Certain information may be necessary to ensure socially inclusive schools.

**6.04. Decision making process:** It is agreed that conflicts of interest should be dealt with. Guidance on this can be gleaned from the 2011 *Constitution of Boards and Rules of Procedure* document.<sup>xiv</sup> An offer on a provisional basis<sup>xv</sup> leaves parents not knowing where they stand. Alternatively schools could retain a certain number of places to deal with appeals rather than offers being made on a provisional basis. However schools will not want to hold back places, so therefore any solution which avoids either scenario would be welcome.

**6.05. Appeals process:** it is agreed in broad terms that the S.29 procedures should, insofar as it is possible, confine appeals to situations to where no place has been obtained in any school.

## **7.00. Criteria when Oversubscribed**

**7.01.** No matter what criterion is used, issues will arise regarding the need to ensure socially inclusive schools balanced with the issue of parental choice. It is accepted that it is only where the demand exceeds the number of available places that selection criteria apply, except in exceptional cases as outlined below.

**7.02. Age:** One issue for consideration is whether the minimum age at which children may be enrolled should be increased. If so, the age criterion becomes less significant or irrelevant depending on the change. Subject to the foregoing it is agreed that enrolment policies should favour children who are older. A number of questions arise were this measure to be considered. It is important to ensure that children from disadvantaged backgrounds who are assisted by the current ECCE scheme continue to be supported so that there is no gap in provision should the age of entry be raised. A further question that arises is whether the age criterion is used on its own i.e. places are allocated to children in accordance with age or whether if it is used in conjunction with another criterion/criteria e.g. siblings. As stated pre-enrolling from birth is a possible breach of the Education Welfare Act.

**7.03.** The discussion paper makes reference to S.10 of the EPSEN Act,<sup>xvi</sup> which provides for the designation by the NCSE of a school for a pupil with special educational needs and reference is made to the option to extend this concept to other children where there is extreme difficulty in securing a place for reasons other than oversubscription. While this suggestion appears attractive on the face of it, there are other matters to be considered e.g. what are the reasons the pupil has not been able to get a place i.e. are there health and safety issues etc?. A school might legitimately ask why it rather than another school was

chosen? should the school have a right of appeal in this situation? what capacity has an outside body to determine this etc.? The discussion paper accepts<sup>xvii</sup> that “It may also be worth considering whether a school can refuse enrolment where there are reasonable grounds that the admission of a pupil could have a very serious detrimental effect on the health and safety of other pupils or staff of the school.” CPSMA is of the view that the reference to “very” and/or “serious” is not appropriate.

- 7.04. First come first served:** In practical terms this criterion can only operate in isolation from other criteria for one year, as the sibling issue will emerge after the first year of operation of the ‘*first come first served*’ criterion. It could perhaps apply after siblings are accommodated. It is accepted that this will impact on newcomers. If common timelines were introduced for all schools, this could obviate the difficulty to an extent. On the other hand it could have the effect of the more vulnerable being disproportionately affected by not providing for social inclusion.
- 7.05. Siblings:** CPSMA agrees that it is appropriate to continue to use this criterion. It is by and large acceptable to parents. CPSMA’s online survey confirmed that this was the most popular criterion used by schools.
- 7.06. Relative of staff/past pupils:** CPSMA’s 2008 draft template for admissions refers to children of current staff. As to whether it should be accorded the same priority as is in the draft template requires serious consideration.
- 7.07. Open days/interviews:** It is accepted that use of open days/interviews could be problematic. One of the reasons why the practice evolved is as an administrative tool to ascertain whether parents have enrolled simultaneously in several locations particularly where schools in a locality choose to hold such open days on the same date. This would be obviated if the regulatory framework introduces a process for inter school co-operation. In addition it will be necessary for the information (which is to be prescribed by Minister) to be sufficient to allow schools to determine whether they can accommodate a child. A reference to a meeting with the school principal/chairperson should make it clear that this meeting only takes place after the child has been accepted for enrolment.
- 7.08. Random selection:** Random selection could potentially work where schools have other criteria already in place e.g. places are allocated to siblings first and then random selection applies.
- 7.09. Faith:** This criterion should be retained. The priority accorded to it should be decided by the Patron in consultation with the school community. CPSMA’s online survey suggests that some Catholic schools use the criteria of siblings/age in priority to faith. This is understandable as schools obviously want to try to accommodate parents as far as this is possible.
- 7.10. Distance:** CPSMA agrees in general terms with the statement.<sup>xviii</sup> “Giving priority to pupils on the basis of distance from their school is generally considered to be a fair and transparent method of allocation of school places. If advanced in regulations, it would however be important for schools to be required to clearly set out in their enrolment policy how the distance is measured so as to ensure it is operated in a consistent, fair and transparent manner.” It is probably the case that this criterion would have to be used in conjunction with other criteria. There may also be implications regarding patronage issues. CPSMA welcomes the acknowledgment that “For schools of a particular denomination there may also be a parish or diocesan boundary that is of particular relevance and consideration might be given to making provision for same in regulations.”
- 7.11. Language policy:** It is agreed that parents should respect rather than having to attest to the language policy.
- 7.12. Pupil ability:** It is agreed that it should be specified that admission is not based on academic or other skills.
- 7.13.** Problems may be created for parents where categories are not clear or are not singular in nature e.g. sibling category is sometimes qualified by a closing date or oldest sibling is prioritised or on a par with another criterion. CPSMA’s 2008 draft template needs to be amended in order to take account of this. It is accepted that double categorisation may lead to additional problems of interpretation for parents seeking information or clarity around the issue of enrolment.

## **8.00. Independent Enrolment/Admission Officer**

**8.01.** In general terms externally imposed solutions tend to be problematic for both the school in question and the wider community.

**8.02.** There is a suggestion<sup>xix</sup> that primary legislation could provide for an independent enrolment/admission officer where a BoM is not complying with statutory requirements regarding enrolment and that this would be activated where there is evidence of significant levels of parental concern. *“Such concerns could perhaps be evidenced by the existence of high levels of appeals, by a formal request to a patron or the Minister from the school’s Parent Association or where the request is made by a certain minimum number of parents (such minimum number could be prescribed by the Minister<sup>xx</sup>)”*. The latter could perhaps be problematic e.g. is it limited to parents in the school or any parent or just parents who applied and did not get a place? It is also stated that action on foot of those concerns would only be taken by the Patron or Minister where satisfied that all local avenues of appeal have been exhausted or are incapable of resolving the issues in question.

**8.02.** The discussion paper suggests that the process would be similar to the current S.16 procedures but would only deal with enrolment. It is questionable as to whether there is a need for a further procedure, particularly as it appears to be disproportionate. Even if the proposal is accepted, the appropriate person should be appointed by the Patron in the first instance. One could ask whether there is a danger that if a BoM is not complying with the enrolment policy or not abiding by the law that this is just the tip of the iceberg and that sections 16, 17 and 19 are more appropriate in this type of context as the discussion paper indicates that the proposed new procedure would only apply in the most serious cases and where local procedures have failed or are not considered sufficient to resolve the difficulty.

## **9.00. Refusal to Enrol**

**9.01.** CPSMA agrees that there is a difference between a refusal to enrol where there are insufficient places and a refusal to enrol where there are sufficient places. Any proposed regulatory framework however, must provide for exceptional measures as is acknowledged in the discussion paper. The draft template for admissions/enrolment procedures in Catholic National Schools that CPSMA issued in 2008<sup>xxi</sup> provides that the Board of Management reserves the right to refuse enrolment in two exceptional circumstances i.e. where a pupil has special needs to such a degree that even with additional resources available from the Department of Education & Skills the school cannot meet the needs and/or provide the pupil with an appropriate education or in the opinion of the Board of Management, the pupil poses an unacceptable risk to other pupils, to school staff and to school property. Of note the template specifically refers to the right of a S.29 Appeal and the need to inform the parents of same in writing. In addition the template also states that as a general principle the enrolment of children with a disability or special educational needs cannot normally be deferred or postponed until additional resources have been approved.

## **10.00. Enrolment of Children with Special Educational Needs.**

**10.01.** CPSMA fully endorses the enrolment of children with special educational needs into mainstream schools. It is of course vital that these children are afforded the necessary supports and resources to ensure that they can access an appropriate education. It is also important to ensure that children are not encouraged to go to a “more suitable” school when this is not the case. However certain special schools are seen as the option of last resort by parents simply because parents are not aware of what the special school can deliver. This is why ensuring that parents are aware of all options in a given area including special schools is so important.

**10.02.** It might be noted that a very significant numbers of calls to CPSMA’s office relate to a situation where a child is inappropriately placed and the school cannot cater for the child’s needs as s/he is a danger to other pupils, staff etc. One important distinction between the process for enrolment in a special school and a mainstream school is that in the case of a

special school there is a requirement of a professional report confirming the diagnosed special educational need with a recommendation of a placement in a special school. A child with special educational needs does not have to provide this report for enrolment into a mainstream class which can create difficulties in terms of ensuring that the child receives the support for the delivery of an appropriate education. As stated the reference in the discussion paper for a requirement of “*very serious detrimental effect on the health and safety of other pupils or staff of the school*” sets the bar too high as once there is a detrimental effect on health and safety it should not have to be “*very serious*”. Some have the mistaken belief that a certain amount of violence has to be tolerated by the staff/other pupils, which clearly altogether apart from Health & Safety concerns, is not the case.

#### **11.00. Charging a fee on enrolment**

**11.01.** CPSMA agrees that schools are precluded from charging fees and should not charge a fee on enrolment. As the discussion paper points out a voluntary contribution is an entirely separate matter. It would appear that some schools use a fee on enrolment to get round the issue of ‘forum shopping’. This can be obviated if the regulatory framework provides for effective inter school co-operation. It is agreed that the regulations could provide that an application for admission cannot be conditional on the payment of a financial contribution whether in the form of a booking deposit or in any other format. There is the separate issue of the administrative costs of assessing applications and who should bear the costs of same.

#### **12.00. Multiple Applications to Enrol**

**12.01.** The issue of parents seeking to enrol children in several schools simultaneously is a matter of concern. This leads to an administrative burden on schools, false expectations in regard to teacher numbers, requirement to provide additional school places close to where other local schools already have sufficient places etc.

**12.02.** It also raises questions in terms of section 29 appeals, where enrolments are refused and parents find themselves taking individual section 29 appeals against all refusing schools. The suggestion that a S.29 appeal should only lie where no place has been obtained is to be welcomed provided this has the necessary legislative backing. To some extent some schools through no fault of their own are being penalised by S.29 appeals. In addition if there are a number of successful S.29 appeals in relation to one school all heard separately, a school could find itself having to accommodate numbers of children for whom it does not have the capacity. Co-operation among schools and ensuring that parents have the necessary information will address the issue to some extent. This could be applied in situations even where there is no current issue regarding oversubscription in order to ensure that administrative costs etc. are kept to a minimum.

**12.03.** Co-operation among schools currently takes place along the following lines

- Some schools locally send joint letters to all potential parents asking them to state a preference among the schools available.
- In a number of situations local principals meet/confer or stay in touch to discuss enrolment lists. Obviously data protection issues would have to be addressed.
- Schools coordinate registration night or time of enrolment to identify those who have enrolled in several schools.

#### **13.00. Conclusion.**

**13.01.** CPSMA would again like to record its thanks to the Minister and the DES for the invitation to respond to the discussion paper and the obvious amount of work that went into the preparation of same.

**13.02.** CPSMA is of the view that with consultation, the Education Partners and the relevant stakeholders can produce a regulatory framework that meets the needs of pupils, their parents, the school community and the wider community which respects the statutory obligations of Boards of Management.

## Endnotes

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- <sup>i</sup> “... Three schools serve our town but we have all suffered a type of ghettoization because three neighbouring rural co-educational schools attract a significant number of mainly middle-class families, leaving the town schools with the balance. The neighbouring schools seem to adopt very selective enrolment procedures so that none of the difficult families are accepted and very few non-nationals seem to get in either. This is a grossly unfair system’. Another comment stated “Enrolment has for too long been used to stream children according to background. Local difference has been used as an argument for each school individualising their policy to too great a degree. The ideal would be that all schools within a parish have a more homogenous makeup. This can only be achieved through an overhaul of enrolment policy’
- <sup>ii</sup> at page 32 of the discussion paper
- <sup>iii</sup> ‘I don’t trust one of the other schools in our parish to be honest or fair.’ and another comment to the effect “Due to encroachment by other neighbouring schools into our catchment area, including running a bus in etc. pupils who would be expected to attend here are not, and our numbers in our lovely school are declining”
- <sup>iv</sup> the discussion paper does make reference to this issue
- <sup>v</sup> at page 8 of the discussion paper
- <sup>vi</sup> at page 28 of the discussion paper
- <sup>vii</sup> In its Solas Magazine AGM 2008 Special.
- <sup>viii</sup> At page 18 of the discussion paper it is recognised that there is no statutory underpinning for this.
- <sup>ix</sup> as described by in one response to the online survey
- <sup>x</sup> at page 18 of the discussion paper
- <sup>xi</sup> at page 24 of the discussion paper
- <sup>xii</sup> at page 35 of the discussion paper
- <sup>xiii</sup> As noted at page 11 of the discussion paper the Minister has not prescribed “such information”
- <sup>xiv</sup> In particular at paragraph 15, pages 24 & 25)
- <sup>xv</sup> as referred to at page 37.
- <sup>xvi</sup> which as noted in the discussion paper is not commenced
- <sup>xvii</sup> at page 19
- <sup>xviii</sup> at page 33 of the discussion paper
- <sup>xix</sup> at page 25 of the discussion paper
- <sup>xx</sup> Page 25 of the discussion paper
- <sup>xxi</sup> in its Solas Magazine-AGM 2008 Special.

## APPENDIX A

An on line survey was conducted by CPSMA to ascertain views from schools regarding the enrolment discussion paper.

- In 96% of cases the schools' enrolment policy had been reviewed since 2009.
- In 53.8% of cases a copy of the enrolment policy has been issued to parents.
- In 92.35% of cases applications are accepted throughout the year. 45% have specific time frames – especially for junior infants.
- Time frames for response to an application for enrolment:

Month January/February regardless of time lag	9.4%
Immediate response	* 22.6%
One month	3.7%
Up to 4 years 9 months	1.8%
Within 21 days	16.9%
7 days	5.6%
1 or 2 weeks	5.6%
3 to 4 weeks	15%
November / December	1.8%
End term 2	1.8%
At next BoM meeting	1.8%
Variable	1.8%
5 months	1.8%
3 months	1.8%
5 weeks	1.8%
2-3 weeks	1.8%
Several weeks	1.8%

- The following criteria are those most used by schools when oversubscribed

Priority Order	First priority	2nd priority	3 <sup>rd</sup> priority
Siblings/step siblings	60%	18%	
Catholic within the parish	22%	15.9%	9.3%
Children of staff	n/a	11.3%	32.5%
Children of former pupils	n/a	6.8%	9.3%
First come	n/a	1.2%	
Neighbouring parishes			6.9%

All others in parish			11.6%
Catholic in parish or catchment area		13.6%	9.3%
Children in locality		6.8%	
Lottery			4.6%
Closes to school			4.6%
Pre school naonra			4.6%
Feeder school	2%		
Age	4%		
Irish speaking	4%		

- 83.1% indicated that they did not charge a fee on enrolment while 16.9% of schools indicated that they charged a fee. On closer examination however in all but one case the fee was not for enrolment *per se* but was a contribution to the school book costs, art and craft supplies, book rental etc. for the child and no portion was retained by the school. In the one case which charged a fee *per se*, the fee was €2 which was used to 'cover administrative costs, usually postage, photocopying etc'.
- 76.4% responded positively to the survey question as to whether schools would favour interschool cooperation.

## Appendix B

### Extract from CSPMA Newsletter issue 10 February 2011-Enrolment Policy Review

In light of recent decisions of the Supreme Court,<sup>xxi</sup> High Court<sup>xxi</sup> and the Equality Tribunal,<sup>xxi</sup> Boards

of Management are advised to review their enrolment policies. The following template may be used by a BoM to assist with this review.

	Questions	Y/N	If Not....
	Does the BoM have an Enrolment/Admissions policy in place?		Section 15(2) (d) <i>Education Act, 1998</i> provides that a Board shall <i>publish, in such manner as the board with the agreement of the patron considers appropriate, the policy of the school concerning admission to and participation in the school...</i>  If there are a number of Catholic schools within a parish boundary, a <b>common enrolment policy (subject to the approval of the Patron)</b> may be drawn up among those Catholic schools to ensure that applicant children get priority in the nearest or local school.
	Does the policy document include/refer to?:		
A	Title of Policy		State [Name of School] 'Enrolment Policy'
B	Introductory Statement		State <b>how</b> the policy was formed and <b>who</b> was involved.
C	Mission Statement		Clearly state the <b>link</b> between this policy, other relevant school policies and the <b>Catholic ethos</b> of the school. An educational establishment does not discriminate if it admits children of one particular religious denomination in preference to others, or if it refuses to admit a child who is not of that denomination, provided any such refusal is essential to maintain the ethos of the school. <sup>xxi</sup>
D	Rationale		State why it is necessary to devise such a policy.
E	Aims		State ideally what the school seeks to achieve by having the policy in place.
F	General Information Section <sup>xxi</sup>		Include: <ul style="list-style-type: none"> <li>• Name, address and contact details of school</li> <li>• Denomination/Name of Patron</li> <li>• Type of school e.g. Co-educational, single sex, ethos, etc.</li> <li>• Number of teachers &amp; range of classes taught</li> <li>• Curriculum offered</li> <li>• Funding e.g. Oireachtas funding and DES grant assistance</li> </ul>
G	Application Procedure  General Points to note		Clearly state how, when and by what means a parent/guardian should apply for enrolment e.g. application form.  (a) PPS numbers should <b>not</b> be requested at the time of application unless a specific request for resources is being made to the NCSE <sup>xxi</sup> at that time. Any such general request at enrolment is contrary to current Data Protection legislation.

		<p>(b) Schools may... <i>as a condition of so registering such child, require his or her parents to confirm in writing that the code of behaviour so provided is acceptable to them and that they shall make all reasonable efforts to ensure compliance with such code by the child.</i><sup>xxi</sup></p> <p>(c) Admission of Junior Infants normally takes place on the first day of the academic year. Any child who has not reached his/her fourth birthday <b>cannot</b> be enrolled at any time.<sup>xxi</sup></p> <p>(d) The BoM of a school must make a decision<sup>xxi</sup> in respect of an application within 21 days of receipt of such application. Where a school <u>reasonably requires further information</u>, the policy should state that the application will not be treated as being complete until such time as all requested information, has been received. Schools should therefore clearly state what information and documentation is required.<sup>xxi</sup></p> <p>(e) The Board may wish to specify that Junior Infants must be four years old by/on a certain date e.g. where the number of applications in any given year exceeds the availability of places. In the case of pupils applying for enrolment in other streams, the BoM should provide for enrolment at any time. Boards should exercise caution when taking applications throughout the year and are reminded of the requirement to give a decision to the applicant parent/guardian within 21 days of the application being made.<sup>xxi</sup></p>
<b>H</b>	<b>Decision Making Process</b>	The policy should clearly state that decisions will be given in writing within <b>21 days</b> of receiving a complete application. <sup>xxi</sup>

I	<b>Enrolment Criteria</b>	<p>In regard to criteria for enrolment, the priority order in which children will be accepted, in situations where schools may be oversubscribed, should be clearly stated.</p> <p><b>Suggested Criteria</b> (adapt to suit circumstances):</p> <ol style="list-style-type: none"> <li>1. Children from [Name of other school]: This covers schools whose intake comes primarily from an infant, junior or other school</li> <li>2. Sisters and/or brothers of pupils currently in the school. This will depend on the type of school e.g. single sex schools</li> <li>3. Catholic children living within the parish boundary</li> <li>4. Catholic children living outside the parish boundary who do not have a Catholic school within their own parish boundary</li> <li>5. Other children living within the parish boundary</li> <li>6. Other children living outside the parish boundary</li> <li>7. Children of current staff, including ancillary staff.</li> </ol> <p>In the event that there are more applicants within any category than there are available places, priority will be given to children within the particular category in order of age, starting with the oldest.</p> <p>Schools should ensure that criteria used do not directly or indirectly discriminate against an individual applicant or any group of applicants.<sup>xxi</sup></p>
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K	Refusal to enrol on grounds of 'Exceptional Circumstances'	<p><b>A BoM can only refuse to enrol in compliance with its agreed policy.</b> The BoM can reserve in its enrolment policy the right to refuse enrolment in <b>exceptional</b> circumstances e.g.</p> <p>(a) The pupil has special needs such that, even with additional resources available from DES, the school cannot meet such needs and/or provide the pupil with an appropriate education</p> <p>or</p> <p>(b) In the opinion of the BoM, the pupil poses an unacceptable risk to other pupils, school staff and/or school property.</p> <p>Boards should <b>only seek to rely</b> on this clause in <b>rare</b> and <b>exceptional</b> circumstances. Schools should be aware of the right of a parent/guardian to appeal the decision of the BoM.</p>
L	Right of Appeal	<p>Section 29 of the <i>Education Act 1998</i><sup>xxi</sup> provides for a right of appeal against a decision to refuse enrolment.<sup>xxi</sup> The policy should state how, when and by whom parents/guardians are informed of their right to appeal a decision of the BoM in relation to a refusal to enrol. It should also state who has responsibility for preparing a response for the Appeals Committee if and when an appeal is initiated. Following a decision of the Supreme Court,<sup>xxi</sup> Boards should note that, in an appeal under Section 29 of the Education Act 1998, an Appeals Committee can substitute its decision for that of the BoM and may make such recommendations to the Secretary General of the DES as it considers appropriate.<sup>xxi</sup></p>
M	Pupil Transfer	<p>Pupils may transfer to the school at any time subject to the school's enrolment policy and available space. BoM should be aware that the enrolment, which determines the teaching allocation of a school each year, is determined by the enrolment as of 30<sup>th</sup> September in the previous school year.</p> <p>Schools should note that the legal obligation to share information in relation to attendance and educational progress has effect only when the child has been put on the register of the second school and not before.<sup>xxi</sup> Any sharing of information prior to registration could be in breach of Data Protection legislation.<sup>xxi</sup></p>
N	Code of Behaviour	<p>A school should append to its enrolment policy, a copy of its Code of Behaviour and any other policy referred to in its enrolment policy. Section 15(2)(d) of the <i>Education Act, 1998</i> provides that the enrolment policy should outline the policy in relation to suspension and expulsion in accordance with NEWB Guidelines.<sup>xxi</sup></p>

O	<b>Review</b>		The policy document should note when, how and by whom the policy will be monitored and reviewed.
P	<b>Approval of Patron</b>		Section 15(2)(d) of the <i>Education Act 1998</i> <b>requires</b> a Board of Management to <i>publish, in such manner as the board <b>with the agreement of the patron</b> considers appropriate, the policy of the school concerning admission to and participation in the school, including the policy of the school relating to the expulsion and suspension of students and admission to and participation by students with disabilities or who have other special educational needs, and ensure that as regards that policy principles of equality and the right of parents to send their children to a school of the parents' choice are respected and such directions as may be made from time to time by the Minister, having regard to the characteristic spirit of the school and the constitutional rights of all persons concerned, are complied with.</i>
Q	<b>Ratification</b>		On receipt of approval from the Patron, the revised policy should be approved at a meeting of the BoM, signed by the Chairperson, dated and retained with the minutes of the particular meeting.
R	<b>Communication/Circulation of Policy</b>		Revised copies/updates should be made available on-line and/or issued in hard copy on request to parents/guardians. New applicants to the school should be given a hard copy of the enrolment policy.