



**EXCEPTIONAL  
CIRCUMSTANCES  
BODY**

**EXCEPTIONAL CIRCUMSTANCES BODY  
(ECB)**

**ANNUAL REPORT 2016/17**

*Report period: 1 April 2016 – 31 March 2017*

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## **BACKGROUND**

### **Establishment and Remit of the Body**

The Exceptional Circumstances Body (ECB) is a Tribunal Non-Departmental Public Body (NDPB) established and funded by the Department of Education (the Department or DE) in accordance with the School Admissions (Exceptional Circumstances) Regulations (Northern Ireland) 2010. Its members are appointed by DE but they work independently from the Department. The relationship between the Department and the Body is described within a Memorandum of Understanding (MoU), a copy of which may be accessed on request. One of the requirements of the MoU is the production of this annual report, which forms part of the Department's monitoring of the work of the Body.

The ECB considers cases where an applicant claims that their child must attend a particular post-primary school for exceptional or compelling circumstances, but an application to that school made through the normal process has been refused. The Body can only consider cases where the child is of compulsory school age seeking admission into Years 8-12. Its remit does not extend to applications from children who are in receipt of a statement of special educational needs as they are already catered for by the content of their statement.

The ECB is intended to cater for pupils whose exceptional needs have previously been difficult to respond to flexibly and sympathetically: for example, children who have been subjected to sexual abuse or children looked after by an Authority (as defined by Article 25 of the Children (NI) Order 1995(a)). Regulations prescribe that the ECB may not regard the following circumstances as exceptional circumstances requiring the admission of a child to a particular school:

- circumstances related wholly or mainly to the kind of education provided at that school;
- circumstances related to a child's academic ability; or
- circumstances related wholly or mainly to the availability of transport to that school.

ECB panels constitute a mix of legal and lay members. The panels consider each application on its own merits and apply the following three tests to determine whether to issue a direction to admit the child to the specified school:

**Test 1: Are the circumstances that are claimed exceptional?**

**Test 2: Are the circumstances that are claimed personal to the child?**

**Test 3: Do the circumstances that are claimed require admission of the child to the school specified by the applicant, and only that school?**

If a panel concludes that a child has exceptional circumstances which require admission to the specified school, the panel will issue a direction to the school to admit the child in question. If, on the other hand, a panel concludes that a child does not have exceptional circumstances which require admission to the specified school, there is no further right of appeal other than by means of a judicial challenge. The ECB process complements the admissions appeal tribunal procedure administered by the Education Authority (previously the Education and Library Boards) and parents can appeal to either process, or to both. As the two systems consider different grounds for appeal, a dismissal from one will not affect the outcome of the other. The key difference is that the admissions appeal tribunal procedure, which must be undertaken in a narrow timeframe following the distribution of school placement letters in May, will only consider whether schools have properly applied their published admissions criteria, whereas the ECB accepts applications at any time of the year and panel members will consider a wide range of circumstances personal to the child.

### **Membership of the Body**

At the beginning of the 2016/17 reporting period, there were 43 ECB members (16 legal members and 27 lay members), all of whom had been re-appointed to the Body for a two year term beginning on 1 July 2016. During the reporting period one legal member tendered his resignation.

Panel members fall into two categories: 'legal' members who have been appointed for their legal expertise, and 'lay' members appointed for their experience in the field of education and/or the welfare of children, such as in teaching, social work, social

services, education services, educational psychology or educational welfare. Each application is heard by a panel of three members, chaired by a legal member, assisted by two lay members.

Appendix 1 contains a full list of the membership by the end of this reporting year.

### **The Secretariat**

The Secretariat acts as the link between applicants and the membership and is responsible for processing applications and facilitating hearings. It oversees the financial, governance and accountability aspects of the Body and its work includes arranging members' remuneration for hearings attended and reimbursement of expenses incurred. Its responsibility extends to returning regular monitoring information to both the Department and the ECB members in line with the MoU.

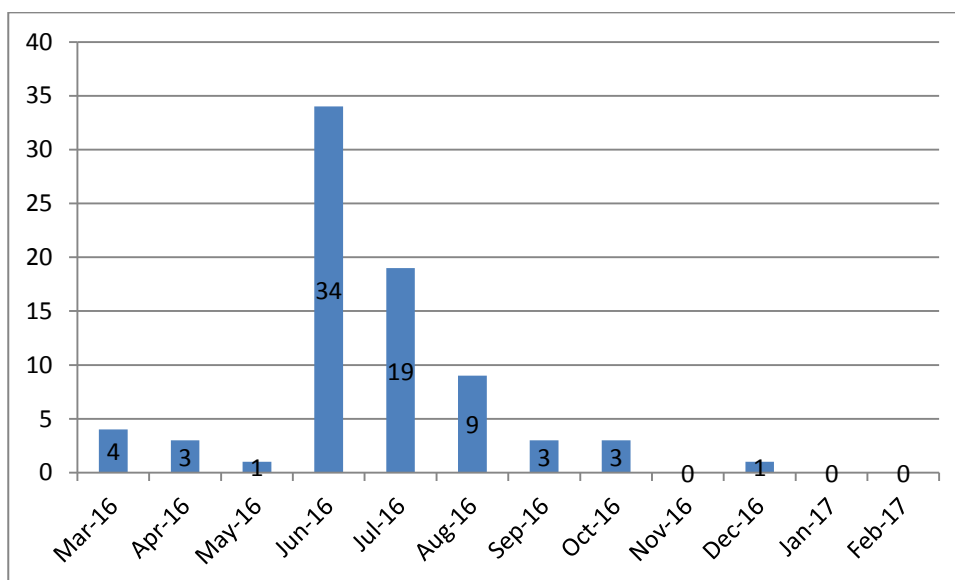
During the 2016/17 reporting period the Secretariat consisted of a core administrative team of three full-time staff appointed by the Department (consisting of 1 Staff Officer and 2 Administrative Officers - a vacancy of an Executive Officer 2 post, will be filled in the early 2017/18 financial year).

## **ANALYSIS OF THE BODY'S WORK DURING THE 2016/17 REPORTING PERIOD (All figures reported reflect the Financial Year 2016/17)**

### **Applications received**

During the period of this report the ECB received 76 applications. The graph below shows the number of applications received broken down by month. While the ECB accepts applications at any time of the year, the majority of applications are received following the release of post-primary school placement letters to parents at the end of the transfer process (the end of May each year). Of the total number of cases, 85% were received between June and September 2016.

### **APPLICATIONS RECEIVED 2016/17**



Of the 76 applications received; 11 were withdrawn and a further 1 was returned to the applicant as it was incomplete. When returning incomplete applications the secretariat attaches a letter, detailing the information required to enable the application to be progressed. It is the applicant's decision as to whether they then wish to proceed with the application.

### **OUTCOME OF APPLICATIONS**

In this 2016/17 reporting year, 64 cases were considered by the ECB (i.e. reached hearing stage) which resulted in the following decisions:

<b>Outcome</b>	<b>Total</b>	<b>Percentage</b>
Direction issued to admit child to specified school (successful)	27	42%
Direction not issued to admit child to specified school (unsuccessful)	37	58%

### **Performance against four-week target for hearing applications**

Regulations prescribe that applications must be heard within four weeks of receipt or as soon as possible thereafter. During this reporting period performance against this target was as follows:

<b>Applications heard within 28 days</b>	<b>Applications heard outside of 28 days</b>
62	2

The 2 applications that were heard outside the 28 day deadline were due to applicants' holidays and outside of the control of the ECB Secretariat.

It should be noted that the 28-day timeframe was established in Regulations before the complexities involved in processing applications to hearing stage were fully understood. The Department may consider extending this timeframe at the next legislative opportunity.

### **Performance against three-week target for notifying applicants of decision**

Separately, the Regulations determine that a decision should issue to an applicant within three weeks of the hearing date. Performance against this target was recorded as follows:

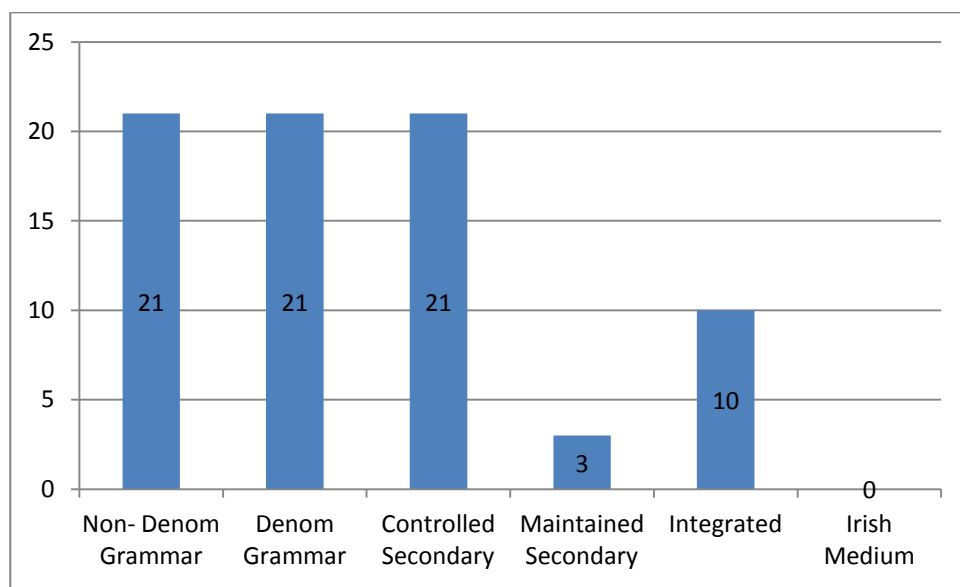
<b>Decisions issued within 3 weeks of hearing</b>	<b>Decisions issued outside of 3 weeks of hearing</b>
(100%)	0 (0%)

## APPLICATIONS BY PUPIL YEAR GROUP

Of the 64 cases considered at ECB hearings in 2016/17, 49 (77%) were applications for a Year 8 place while the remaining 15 (23%) were applications for a place in Years 9 to 12.

## APPLICATIONS BY SCHOOL MANAGEMENT TYPE 2016/17

The following graph illustrates the number of ECB applications received broken down by the category of post-primary school in which a place was being sought. ECB received 76 applications, 1 application was incomplete and was returned to the applicant and 11 were withdrawn.





## APPLICANT FEEDBACK

Of the applicants who had their cases heard by the ECB in 2016/17 13 returned the evaluation feedback form that was sent to them with their decision letter. The table below sets out the views of those who responded.

	<b>Strongly Agree/ Agree</b>	<b>Disagree/ Strongly Disagree</b>
Able to access the information needed to decide if an application to the ECB was appropriate for my child's circumstances	13	0
Instructions on how to complete the application form were clear	13	0
The guidance booklet was helpful	13	0
The information pack was helpful	13	0
Venue was easy to find	12	1
Parking facilities were good	12	1
Reception staff at venue were helpful	13	0
Panel members put applicant at ease during hearing	13	0
Written response for panel's decision was clear and detailed	13	0
ECB service was professional	13	0

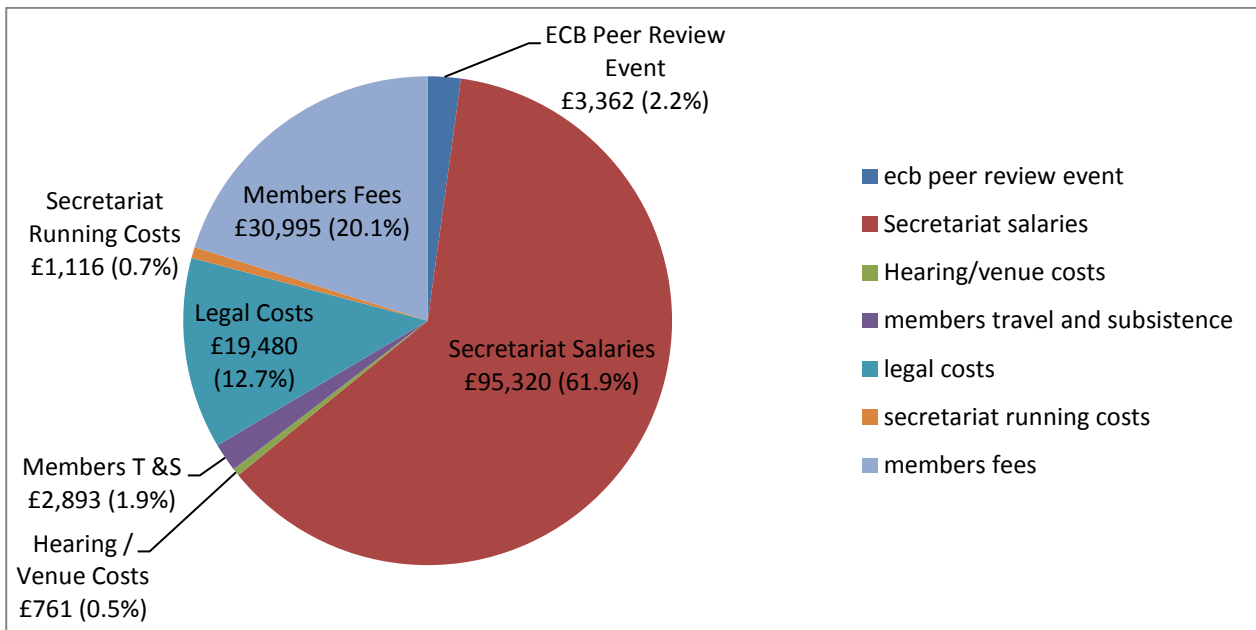
It is recognised that an applicant's view of the ECB process may be influenced by the outcome of their application.

## RESOURCES AND EXPENDITURE 2016/17

The ECB's expenditure during the 2016/17 financial year was £153,927. A detailed breakdown of operating costs for that period is shown below, followed by some explanatory notes:

A total of 76 cases were convened at a cost to the department of £34,649. This figure is made up of members' fees and travel costs and venue costs.

### RESOURCES & EXPENDITURE 2016/17



### Explanatory Notes

**Members' Fees:** Legal members (who chair panels) receive £365 per full hearing day, which usually equates to the consideration of two applications. Lay members receive £260 per full hearing day. The fees for part hearing days, which usually equate to the consideration of one application, are £182.50 for legal members and £130 for lay members.

**Members' Travel and Subsistence Expenses:** Members may claim travel and subsistence expenses in respect of attendance at ECB hearings and ECB Peer Review Events. Claims are reimbursed on the basis of the NICS allowances applicable at the time. The total expenditure on members' travel and subsistence expenses includes the cost of associated Tax and National Insurance contributions. .

**Hearing Venue Costs / Interpreter fees:** Hearings are accommodated in ten centres across Northern Ireland. Where possible, the ECB secretariat will use venues that incur no costs. It was necessary to engage interpreter services on two occasions throughout 2016/17.

**Legal Costs:** The ECB appointed its own independent legal adviser in May 2012 to provide the Body with legal advice as and when necessary.

In 2016/17 the ECB required advice throughout the Judicial Review (JR). This accounts for a higher spend on legal fees than in more recent years.

**Secretariat Salaries:** Salary costs include employer's national insurance and pension contributions for the four members of staff in the Secretariat.

**Secretariat Running Costs:** Office running costs include staff training, travel and subsistence expenses and other incidentals such as stationery.

## Appendix 1

### ECB MEMBERSHIP

Legal Members	Lay Members
Mr Joe Moore	Miss Marion Reynolds
Mrs Sarah Havlin	Mr David Moore
Mr David Hunter	Mrs Andrea Smyth
Mr Michael Flanigan	Mr Gerry Strong
Mr Eamon O'Connor	Mr Trevor Magee
Ms Anne Marshall	Mrs Diana Press
Mr Paul Shevlin	Mrs Alannah Brown
Ms Htaik Win	Mrs Angela Hampton
Mrs Anne MacRandal	Dr Robert Maguire
Ms Eithne Ryan	Mrs Susan Smyth
Ms Teresa Leonard	Mrs Arlene Kee
Mrs Patricia Montgomery	Ms Miriam Karp
Ms Carol McClean	Mr Stanley Smith
Mr Timothy Mayes	Mr Bill Reilly
Ms Eileen Brady	Mr Peter Somerville
	Miss Sheelagh Sleath
	Mr Seamus Duffy
	Mr Arthur Rainey
	Mr Tim O'Prey
	Mrs Gillian Reid
	Mrs Mary McCartan
	Mr Diarmuid Maginn
	Mrs Karen Keers
	Mrs Deirdre Brown
	Mr Wilbert McKee
	Mr Brendan McConville
	Ms Barbara Stuart