

DETERMINATION

Case reference: ADA/002350

Objector: A parent

Admission Authority: Durham County Council

Date of decision: 17 July 2012

Determination

In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Durham County Council for September 2013 admissions, in so far as they relate to primary schools.

I have also considered the arrangements in accordance with section 88I (5). I determine that the parts of the arrangements relating to secondary schools and sixth forms for which the County Council is the admission authority do not conform to the requirements of the School Admissions Code, in the same ways as those for primary schools.

By virtue of section 88K (2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

The referral

1. Under section 88H (2) of the Schools Standards and Framework Act 1998, (the Act); an objection has been referred to the Adjudicator by a parent, the objector, about the admission arrangements (the arrangements) for 'Primary Schools in County Durham', for September 2013. The objection is to the measuring system and routes stated to be used in relation to distance from homes to schools.

Jurisdiction

2. The objection is to the arrangements for those primary schools, namely community and voluntary controlled primary schools, for which the County Durham Council (the Council) is the admission authority. These arrangements were determined under section 88C of the Act by the Council, which is the admission authority for the schools in question, on 7 March 2012. The objector submitted the objection to these determined arrangements on 29 June 2012. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 29 June 2012, together with a supporting email and a copy of the arrangements for community and voluntary controlled primary schools;
 - b. the Council's response of 11 July 2012 and supporting documents;
and
 - c. a copy of the determined arrangements.

The Objection

5. The objection is:
 - a. that, although the arrangements say that measuring of distance for the home-to-school oversubscription criterion will be from 'the nearest entrance to a house (e.g. front gate) or flats (e.g. front door of the main building)', in fact GIS measuring takes place from the centre of the house; and
 - b. that, although the arrangements say that measuring will be by 'the shortest walking routes', in fact only those footpaths are taken into account that are metalled and in the Ordnance Survey urban paths network, rather than others that are part of legal walking routes.
6. The objector has no objection to the actual methods of measuring, but describes ways in which he believes parents have been put at disadvantage in their statement of preferences through a false expectation that their children would be admitted. The methods used, the objector says, contravene the Code in not being fair and objective.

Consideration of Factors

7. The Council has explained that, following determination of the arrangements for community and voluntary controlled primary schools on 7 March 2012, it came to light that its customary description in the arrangements of the point at homes to be used for measuring was incorrect, due to the introduction of new electronic systems for, among other things, measuring and recording individual home-to-school distances. The determined arrangements followed those for previous years in stating that measuring would be from the front gate of a house or the front door of the main building in the case of flats (as described above). However, for 2012 and 2013 admissions the system used by the Council in fact entails measuring to the centre of properties.

8. The Council says that, when the error was discovered in April 2012, 'a decision was taken to amend the composite admission prospectus for 2013/14 admissions'. However, the Council's website still showed the old, incorrect wording when I looked at it on 12 July 2013, and did so in connection with secondary school and sixth forms as well as primary schools.

9. In relation to the shortest walking route the Council has allowed and intends to allow for 2013 admissions, it has explained that it has always used the method of identifying footpaths that is now used by the electronic route-finding system utilised for the first time for 2012 admissions. The Council says that this method identifies as acceptable for admissions calculations 'routes on the Ordnance Survey Integrated Transport Network and Urban Paths Network . . . [which] include all man-made paths, i.e. those that are metalled or surfaced'.

10. The Council says – although the objector has not included this detail – that the objector found additional routes on another GIS system available to the public on the Council's own website, which he wished to be used in relation to an application for a school place. The Council has relied on a disclaimer on its website which says that 'Maps are for identification purposes only and must not be used for scaling or formal documentation'. However, I do not find this adequate to rule out the maps' use in relation to parents' applications for school places, particularly as the locations of schools are shown on at least one of the maps in question. Indeed, the Council has implicitly acknowledged this inadequacy, in stating its intention to strengthen the warning by making clear that the system is not used in relation to school admissions. In any case, now that the possibility of different interpretations has come to light, it is important that the matter is clarified within the arrangements themselves.

Conclusion

11. The Council has in general terms acknowledged the mistake that has inadvertently been made with respect to measuring-points and the lack of clear information in the arrangements about routes that comply with its requirements.

12. It is unclear to me to what extent corrected information has been issued to all parents likely to apply for school places in 2013, and certainly the website information about measuring points had not been corrected on 12 July 2012.

13. I find that, in the matters of both parts of the objection, there have been failures to comply with the requirements for clarity in paragraphs 1.8 and 1.13 of the Code. I am therefore upholding both parts of the objection. In order to comply with section 88K of the Act, the matters must be rectified with amended and additional information to be supplied for all those applying for primary schools places in September 2013. The correct measuring points must be defined, and a clear description provided of routes that will be used for measuring purposes, in such a way that parents can make their own assessment of home-to-school distances on the basis of permitted routes.

The Council should be aware that any selection of kinds of acceptable routes that is not capable of clear justification may itself be susceptible to challenge.

14. I find that the same erroneous information about measuring points appears on the Council's website in relation to secondary schools and sixth forms for which it is the admission authority, and, in order to comply with section 88K of the Act, the same corrective measures be taken in relation to those schools.

15. I consider it likely that the Council carries out distance measuring for at least some schools within its area for which it is not the admission authority. While I cannot make a determination in relation to those schools in this adjudication, I strongly recommend that the Council should inform the admission authorities for those schools that they should themselves make variations to their respective arrangements, using the power available to them on the basis of this determination under Regulation 19 of the School Admissions Regulations 2012 (summarised in paragraph 3.6 of the Code), so that their arrangements comply with the measuring methods actually to be used.

Determination

16. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Durham County Council for September 2013 admissions, in so far as they relate to primary schools.

I have also considered the arrangements in accordance with section 88I (5). I determine that the parts of the arrangements relating to secondary schools and sixth forms for which the County Council is the admission authority do not conform to the requirements of the School Admissions Code, in the same ways as those for primary schools.

By virtue of section 88K (2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

Dated: 17 July 2012

Signed:

Schools

Adjudicator: Canon Richard Lindley