



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3769

Objector: A member of the public

Admission authority: Stockport Metropolitan Borough Council

Date of decision: 22 June 2021

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2022 determined by Stockport Metropolitan Borough Council (admission authority) for all community schools in the Stockport local authority.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a member of the public (the objector), about the admission arrangements (the arrangements) for all schools for whom the local authority is the admissions authority in Stockport Metropolitan Borough for September 2022. The objection is to how the local authority deals with late applications, particularly with reference to waiting lists and applications for which circumstances change before the admission date.
2. The local authority in its capacity as an admission authority is the subject of the objection and is therefore a party to it. The other party to the objection is the objector.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by Stockport Metropolitan Borough Council which is the admission authority for the school on 1 February 2021. The objector submitted his objection to these determined arrangements on 9 April

2021. 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

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. a copy of the minutes of the meeting of the council at which the arrangements were determined;
 - b. a copy of the determined arrangements,
 - c. the objector's form of objection dated 9 April 2021;
 - d. the local authority's response to the objection.

The Objection

6. The objector identified two issues in his objection;
 - Compliance with paragraph 2.14 of the Code. This concerns waiting lists and says; 'Priority **must not** be given to children based on the date their application was received or their name was added to the list.' The objector believes that the section of the admission arrangements under the heading 'Applications received after the closing date' in Appendix two of the admission arrangements does not comply with the Code. The objector believes that this penalises late applications twice; firstly, by not dealing with them until all those who applied on time have been dealt with and then by creating a list of late applications (albeit in oversubscription criteria order) of late applications which are dealt with after those on the waiting lists.
 - Compliance with paragraph 2.12 of the Code. This concerns the withdrawal of an offered place and says; 'An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application.' The objector believes that the section of the admission arrangements under the heading 'Change of address/Change of circumstances' in Appendix two of the arrangements does not comply with the Code. The objector believes this is contrary to paragraph 2.12 as a change of address is not listed as a reason for withdrawing an offer.

Background

7. The local authority is the admission authority for 85 primary age schools (infant, junior and primary schools) and five secondary schools. The admission arrangements were

determined at a meeting of the Senior Management Team of the local authority on 1 February 2021. These determined arrangements were the same as those for the previous year.

The oversubscription criteria for community school can be summarised as follows;

- A. Looked after and previously looked after children
- B. Highly exceptional medical/social reasons
- C. Siblings who live in catchment
- D. Other children who live in catchment
- E. Siblings who live out of catchment
- F. Any other applicants by distance
- G. Applications received after the closing date ordered by criteria A to F.

8. The sections of the arrangements which are relevant to this objection can be found in the body of the arrangements on page seven and in the more detailed notes of the appendix on pages 21 to 23.

9. The first part of the objection relates paragraph 2.14 of the Code and concerns the placing of late applicants on waiting lists of oversubscribed schools. The arrangements state 'Applications received after the closing date will be considered after all those received by the closing date. The admission authority reserves the right to accept an application as if it were received on time if there are exceptional circumstances i.e., the family have moved into Stockport and could not have applied for a place earlier or there are specific reasons for the application being submitted after the closing date. If this takes place after the offer date and a place is not available at the preferred school(s), applicants will be placed on the schools' waiting list at the appropriate point.' In the appendix, this is further explained as follows; 'All applications received after the closing date will be considered after all those applications received by the closing date. These applications will, therefore, be in the last category of the oversubscription criteria and placed on the waiting list for each school regardless of whether you live in the catchment areas and have siblings at the school. The application will then be processed along with any others received after the closing date using the oversubscription criteria and not using the date the application was received.' The closing dates for applications are published as 31 October 2021 for secondary applications and 15 January 2022 for primary applications.

10. The second part of the objection relates to paragraph 1.12 of the Code and relates to the withdrawal of offers or places. Under the section 'Change of Address/change of circumstances' on pages 22 and 23 of the arrangements, it states that all changes must be notified and if the changes occur after the allocation of places the change may result in one of the following; the offer being confirmed, the place on the waiting list changing or the

original offer made based on the old circumstances being withdrawn because the child no longer qualifies for the place offered using the new circumstances and the oversubscription criteria for the school. In this case, the offer of a new place will be made. The child's name will be placed on waiting lists at the appropriate point.

Consideration of Case

11. On the first issue, the objector believes that it is contrary to paragraph 2.14 of the Code. He suggests that the inclusion of criterion F in the oversubscription criteria is a deliberate attempt by the admission authority to 'get around' the paragraph's requirement that waiting lists must not prioritise children based on the date their application was received or their name added to the list. He says that the arrangements penalise twice parents who submit late applications; firstly, by dealing with on time applications first and then by putting late applications at the bottom of the waiting lists.

12. The admission authority responded with extracts of the arrangements as outlined above. The authority explains that those late applications where there is a satisfactory reason why it has been submitted late are treated as 'on-time applications'. The satisfactory reasons include the family moving into the area. The authority only considers applications under the 'late' category where there are no significant circumstances preventing the parents from making an application by the published closing date. It goes on to say that the only date used in the process is the closing date which is used as a cut-off point when allocating school places. It therefore refutes the objector's point that it is contrary to paragraph 2.14 in terms of dates the application is received.

13. There are two points in this issue; firstly, the question of whether or not the oversubscription criteria are reasonable, clear, objective and procedurally fair in line with paragraph 1.8 of the Code. It is unusual for an admission authority to include a criterion such as G; 'Applications received after the closing date ordered by criteria A to F' but the Code is clear, including at paragraphs 1.9 and 1.10 that it is for admission authorities to formulate their arrangements. These arrangements have been determined and published by the admission authority in line with the requirements and because they are reasonable, clear, objective and procedurally fair. I consider that they comply with paragraph 1.8 of the Code.

14. Secondly, do the arrangements comply with paragraph 2.14 when it requires that priority must not be given to children based on the date their applications were received or their names added to the list? On this issue I agree with the admission authority; the only date they use is the published closing date for applications which is set nationally and not by the local authority. The authority uses this date as a 'cut off' point. Those applications received before this date are 'on time' applications and allocated in line with the arrangements and those applications received after that date, albeit with the caveat that some may have legitimate reasons for being late in which case they are dealt with as 'on time' applications, are dealt with as 'late'. These late applications fall into oversubscription criterion F and are therefore dealt with after all the other applications. This includes the

compilation of waiting lists, putting 'on time' applications before 'late' applications. If there are a number of late applications, then they are ranked by the oversubscription criteria. All these procedures are set out clearly in the admission arrangements. As they are dealt with in line with the oversubscription criteria, I do not believe that they are contrary to the Code or that late applicants are penalised twice as suggested by the objector.

15. The second issue relates to paragraph 2.12 of the Code which says that 'the admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading applications.' The arrangements require that should a change of address take place between the offer date and the start date of the September term then this should be communicated to the admission team. The arrangements go on to say that this may result in the original offer, based on the old circumstances, being withdrawn because the child no longer qualifies for the place offered using the new circumstances and the oversubscription criteria for the school. In this case the offer of a new place will be made. The objector contends that a change of address is not one listed as a reason for withdrawing an offer and therefore that the arrangements do not conform with the Code.

16. In their response to the objection the local authority says that the term 'error' in the paragraph is subject to interpretation. The authority considers the word to mean 'the judgement of a decision to be found incorrect based on the information held about the application or applicant.' The local authority went on to state that 'the judgement as to whether a decision is correct or not is not fixed and will remain under continuous assessment up to and including the first day of term. The council reserves the right to reassess an application at any time should it become aware of new information. That judgement as to whether a decision to offer a place was correct or not may change, as such, the council may believe its initial decision was flawed/erroneous based on new information.'

17. The authority interpretation is that if a change of address occurs between offer date and the start of the term then this means there is an error in the information held by the admission team and therefore the allocation has been 'offered in error' and can therefore be withdrawn. The arrangements say that in these circumstances i.e., a change of address, there are three possible alternatives; firstly, that the first offer is confirmed because the child is still entitled to the place using the oversubscription criteria, secondly that the child's name may be placed higher or lower on the waiting lists for the preferred schools based on the new circumstances or thirdly that the offer may be withdrawn. In my view, the majority of families who change address between offer date and the start of term would welcome this section of the arrangements as they will either want confirmation of the place or they will want a new, more appropriate place for their child. I am satisfied with the explanation provided by the local authority, and I therefore consider that the arrangements conform with paragraph 1.12 of the Code.

Summary of Findings

18. I am of the view that the admission arrangements conform to both paragraphs 2.14 and 2.12 of the Code. The oversubscription criteria and the notes in the arrangements concerning how late applications are dealt with are clear and unequivocal and explain what will happen if a family changes address between offer date and the start of term, including interpreting a change of address as resulting in an error in the information held by the authority. I therefore do not uphold either issue of the objection.

Determination

19. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2022 determined by Stockport Metropolitan Borough Council (admission authority) for all community schools in the Stockport local authority.

Dated: 22 June 2021

Signed:

Schools Adjudicator: Ann Talboys