DETERMINATION

Case reference: **ADA/0O2149**

Admission Authority: **Blackpool Council**

Date of decision: **1 July 2011**

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Blackpool Council.

I determine that for September 2012 admissions, the arrangements for Blackpool Council should be as follows:

Criterion five of the over-subscription criteria: "Priority will be given to pupils for whom the preferred school is their nearest school".

The Referral

1. The admission arrangements (the arrangements) of Blackpool Council for September 2011 have been brought to the attention of the Schools Adjudicator, by an anonymous email from a member of the public.

Jurisdiction

2. These arrangements were determined under section 88(C) of the School Standards and Framework Act 1998 (the Act) by the Local Authority which is the admission authority for all the community and voluntary controlled schools in the area. Since the adjudication has been referred to me anonymously, it is not clear whether the objector is an appropriate person for the purposes of section 88H(6)(b) and thus whether I have jurisdiction to consider this objection under section 88H.

3. Under section 88I(5), the adjudicator has the power to consider admission arrangements which come to his attention by any means, other than by way of referral by the Secretary of State or local authority report under section 88P.

4. I am satisfied that I have the power to consider these arrangements under s881(5) and it is within my jurisdiction under section 88J to consider whether it would be appropriate to make changes to the arrangements and to specify what changes must be made.

Procedure

5. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code:

- the LA's response to the referral and supporting documentation;
- the Council's booklet for parents seeking admission to schools in the area in September 2011;
- maps of the area identifying relevant schools.

6. In addition to investigating the matters raised in the referral I have also reviewed the admissions arrangements as a whole and considered whether I should use my power under section 88J(2)(b) of the Act. I am not using my powers under the Act to make further changes to the arrangements.

Key Issues

7. Blackpool Council's fifth over subscription criterion covers distance. It sets out a straight line measurement of distance using ordnance survey points and the Council's geographic information system then goes on to say that, " Due priority will be given to pupils for whom the preferred school is their nearest Blackpool school."

8. The objector considers that this criterion contravenes the clarity and fairness requirements laid down in the Code for the following reasons;

1. Blackpool's policy document does not explain how this criterion might be applied to children who do not live within the Blackpool boundary. Since the Council will flag children to their nearest Blackpool school under this criterion, children living outside the authority to the north and south might end up having priority for schools in the extreme north and south of the borough. Coincidentally some of the border schools to which out borough children might have priority are those with the highest attainment figures.

2. Under the current criterion, a Blackpool child who lives next door to a non preferred school could possibly be competing for a place at a preferred school with children from across the boundary. The preferred school might be the nearest Blackpool school for these out borough children though they might well have a Lancashire school closer to them than the preferred school. Under the criterion as currently worded, it would appear that the out borough children would have priority for the preferred Blackpool school. This would be unfair.

Consideration of Factors

9. In response to the objection, the Council has said that the proposal to include the additional statement to the effect that, "Priority is given to those pupils whose preferred school is their nearest Blackpool school", was well considered and consulted upon widely before its introduction. The Council refers to the fact that the Admissions Code promotes parental preference and

the setting of admissions policies that afford fair access to a preferred school place and also advocates a "system where all parents feel that they have the same opportunities to apply for the schools that they want for their child" in support of the statement. It is the Council's contention that the policy is compliant with current legislation and with the School Admissions Code.

10. However, in 1.71, the Code states that admission authorities must make every effort to ensure that all parents are able to understand the process and in particular how oversubscription criteria will be applied. Criteria are required to be free from doubt and easily understood. Parents need to be able to understand whether they have a realistic chance of being offered a place for their child at any particular school. Blackpool's fifth criterion is not easily understood. "Due priority" is open to interpretation and the application of the criterion to out borough children is not explained. This makes it hard for in borough parents to anticipate the strength of demand and the likelihood of gaining a place.

11. The Council's fifth criterion is proximity. There are sound grounds for proximity criteria such as the enhancement of community cohesion, the reduction of congestion and travel costs, the saving of time and the health benefits of walking to school. However the proximity principle does need to be applied comprehensively and absolutely if it is to be seen as fair by parents and others. A qualified application which could result in an out borough child from three miles away gaining a place at a preferred school in preference to an in borough child who lives one mile away is not likely to be seen as fair by parents. Having studied the maps sent to me by the Council, it appears that the current criterion opens the way to such qualified applications. Omitting the descriptor "Blackpool" from the criterion would leave proximity as the determining factor whilst not excluding out borough children.

12. Such a change could lead to some unintended consequences for out borough schools and children. For example, children living in Fleetwood near to Montgomery school but closer to a Lancashire school would not be subject to the same priority for Montgomery school as they are under the existing wording. However, there would be no discrimination against out borough children. Their parental preferences would be treated in the same way as parental preferences from in borough children. Both would be subject to an absolute use of proximity as a criterion.

13. The Council's admission arrangements for 2012 have already been consulted upon and determined as required in a timely manner. Redrafting criterion five for 2012 would ensure that it is clearer and fairer as required by the Code.

Conclusion

14. The objector has raised issues of clarity and fairness with regard to Blackpool Council's fifth oversubscription criterion. I accept that, as presently worded, this criterion lacks clarity as regards the position of out borough children. Nor is it entirely clear what is meant by "due priority". In addition, application of the current criterion five could result in the proximity principle not being fairly and equally applied to in and out borough children. I therefore

determine that, for 2012 admissions, the fifth criterion should be amended to read; “Priority will be given to pupils for whom the preferred school is their nearest school.”

15. I recommend that the redrafted wording should be consulted on as part of the usual consultation process for admission arrangements for 2013 and beyond.

Determination

16. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Blackpool Council.

17. I determine that for September 2012 admissions, the arrangements for Blackpool Council should be as follows:

> Criterion five of the over-subscription criteria: “Priority will be given to pupils for whom the preferred school is their nearest school”.

Dated: 1 July 2012

Signed:

Schools Adjudicator: Janet Mokades