

DETERMINATION

Case reference: VAR629, 630 and 631

Admission Authority: North Tyneside Council

Date of decision: 14 February 2014

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by North Tyneside Council for Cullercoats Primary School and for King Edward Primary School.

I determine that for admissions in September 2014 the catchment areas of each school shall be expanded to include those areas set out in the council's request.

I have considered the arrangements determined for Cullercoats Primary School, for King Edward Primary School and for the other schools for which the council is the admission authority for September 2014, in accordance with section 88I(5). I determine that they do not conform to the requirements in relation to admission arrangements as set out in this determination.

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 amend its arrangements as quickly as possible, but no later than 15 April.

The referral

1. North Tyneside Council (the council) has referred a variation to the adjudicator about the admission arrangements for Monkhouse Primary School (VAR629), Cullercoats Primary School (VAR630) and King Edward Primary School (VAR631). All three schools are located in North Shields. Monkhouse Primary School and King Edward Primary School are foundation schools and Cullercoats Primary School is a community school. All three cater for children from four to 11 years of age.
2. The request is that the catchment area for each school is expanded.

Jurisdiction

3. The referral concerning the three schools was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

4. I am satisfied that the proposed variation for Cullercoats Primary School and for King Edward Primary School is within my jurisdiction. However, for the reasons set out below I have concluded that I do not have jurisdiction to make a determination for Monkhouse Primary School as the admission arrangements for that school had not been properly determined at the time the variation was requested.

5. In addition to considering the matters raised for the variation, I am using my powers under section 88I of the Act to consider the admission arrangements as a whole.

Procedure

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

7. The documents I have considered in reaching my decision include:

- the council’s email of referral of 19 December 2013 and supporting documents;
- the arrangements determined by the local authority for September 2014 and the proposed variation to those arrangements;
- a copy of the council’s booklet for parents seeking admission to schools in the area in September 2014;
- a copy of the letter notifying the appropriate bodies about the proposed variation;
- a copy of the letter consulting the governing bodies of Cullercoats Primary School and King Edward Primary School about the proposed variation, and
- e-mails dated 3 January 2014 from Monkhouse Primary School and 8 January 2014 from King Edward Primary School confirming that the council is acting on behalf of these foundation schools and with their agreement in requesting the variation to their admission arrangements.

8. I have also taken account of the information I received during a meeting I convened on 30 January 2014 at offices of the council at which representatives of the three schools and the local authority were present.

Other matters

9. Since the arrangements determined by the council for admissions in September 2014 have been brought to my attention, I have considered them and, as a result have raised with it my view that they may contravene the requirements of the Code:

(i) in not providing a final tie-breaker to distinguish between otherwise equally qualified applicants for places, and

(ii) in making a clear statement, as part of the arrangements, that parents can request deferred entry to schools.

10. I have also referred the council to the statement contained within its composite prospectus for parents applying for a school place in September 2014 concerning the provision which it makes for the admission of children who have attained four years of age. I have asked the council to respond to my view that this may not meet the requirement of the Code that all such children are offered a full-time place from September.

Background and consideration of factors

11. The council determined admission arrangements for September 2014 for the schools for which it is the admission authority on 11 March 2013. These determined arrangements give priority, after that afforded to looked after and previously looked after children, to those living within each school's defined catchment area. All addresses in the area of the council lie within the catchment area for one of the maintained primary schools situated there.

12. On 1 September 2013 one of these schools, Priory Community Primary School, amalgamated with an independent secondary school to form a new academy school. On 19 December 2013 the council submitted forms to the school adjudicator which requested a variation to the admission arrangements of the three primary schools whose catchment areas adjoin that of the former Priory Community Primary School, citing the latter school's change in status as the major change in circumstances which led to the request. The request set out in detail, with the aid of a map and a list of addresses, the locations that it requested be added to the defined catchment areas of the three schools for admissions in September 2014. The effect of the request is to designate each address formerly within the catchment area of Priory Community Primary School as lying within that of one of the three schools.

13. Prior to making this request, the council had consulted the governing body of Cullercoats Primary school, which is a community school, and of King Edward Primary School, which was a community school at the time the arrangements were determined. It had also notified the relevant bodies set out in paragraph 3.6 of the Code. No comments concerning the proposal were received.

14. When it determined the arrangements on 11 March 2013, the council's Cabinet referred to schools which were members of the North Tyneside Learning Trust, noting that these had foundation status and that each was

responsible for determining its own admission arrangements. The papers for the meeting supplied to me by the council included a document listing these schools and stating that the “North Tyneside proposed Admissions Policy and Co-ordinated Admissions Scheme has been formally adopted by the Governing Bodies of the above Learning Trust Schools in North Tyneside”. This document then set out admission arrangement identical to those supplied to me as those which the council determined on that day for the schools for which it was the admission authority.

15. The variation request made by the council stated that both King Edward Primary School and Monkhouse Primary School were foundation schools, although the document referred to above did not include King Edward Primary School in the list of Trust Schools. I therefore asked the council to support the requested variation with evidence that each had determined the arrangements which were the subject of the request, and that each was content for the local authority to seek the variation to them on its behalf.

16. The council replied stating that on the date the arrangements were determined the admission authority for both foundation schools was itself. Correspondence sent to me from King Edward Primary School confirmed that it had not become a foundation school until 1 July 2013 and that this statement was therefore correct in its case. However, Monkhouse Primary School has informed me that it became a foundation school on 1 October 2012. I was able to confirm these facts relating to the two foundation schools with their representatives and the local authority when I met them together with the representative of Cullercoats Primary School on 30 January 2014.

17. Monkhouse Primary School has also provided me with a minute of its governing body meeting of 19 June 2012 stating that “the school wouldadopt the local authority policy as its admission policy” when it became a Trust school. It has however been unable to provide me with any evidence that it determined its admission arrangements for September 2014 in the period between that date and 15 April 2013, the last date on which it could have done so.

18. There is no provision in legislation which establishes a means for a school which is its own admission authority to cease to be such in law and for another body (such as a local authority) to become the school’s admission authority in its place, or for such a body to act on behalf of a school which is its own admission authority in this matter. In practice, if a school which is its own admission authority wishes to determine the same admission arrangements as those determined for other schools, since the Code requires that admission arrangements are determined annually by 15 April in the determination year (paragraph 1.46), it can only do so on a date after that on which the arrangements were determined and prior to 15 April. It is not possible for such a school to agree in advance to adopt another admission authority’s arrangements, since they do not exist prior to their determination.

19. Monkhouse Primary School has not determined admission arrangements for September 2014, so it is not possible for me to consider a request for them to be varied. It is important that the school determines its arrangements with the minimum of further delay.

20. The council has, however, determined admission arrangements for both Cullercoats Primary School and for King Edward Primary School and has requested that they be varied in the way described above.

21. Both schools have stated that they support the proposed expansion of their catchment area. Monkhouse Primary School affirmed to me when I met its representatives that it too agreed with the proposal and that its intention was to determine admission arrangements that included the proposed expansion of its catchment area.

22. The former Priory Community School, which was significantly oversubscribed in September 2013, will continue to admit pupils from what was its catchment area. No significant impact for either Cullercoats Primary School or King Edward Primary School in terms of increased admissions is therefore anticipated by the council as a result of the proposed change to its catchment area, and I agree that none is likely. Neither school was itself oversubscribed with first choice applications for admissions in September 2013.

23. The council wishes, notwithstanding the requirement placed on it to co-ordinate the admission arrangements of all publicly funded schools within its area, and the requirement placed on all admission authorities to participate in its scheme for doing so, to include all addresses in its area in the catchment area of a maintained school.

24. The council has responded to my concerns concerning possible areas of non-compliance in the arrangements which it has determined for September 2014:

(i) by agreeing that it is necessary for it to provide a certain means for distinguishing between equally qualified candidates. The arrangements determined by it for September 2014 rely on the measurement of home to school distances to do this, but the council has agreed that this is not sufficient to meet the requirements of the Code, paragraph 1.8 which requires there to be “an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated”, and

(ii) by pointing out that the council’s composite prospectus contains a statement that parents may ask to defer their child’s entry to school. The Code, paragraph 2.16, requires admission authorities to make it clear in their arrangements both that parents may ask that full-time entry may be deferred, and that their child takes up their place part-time, until reaching compulsory school age. The council’s statement omits this detail, and does not appear in association with the stated oversubscription criteria for admissions, but only as a statement within the composite prospectus. I do not believe that this satisfies the intention of the Code that the provision is made clear as part of the arrangements.

25. The council has also responded to my concern regarding the statement in its composite prospectus concerning the provision made for children who are four. This statement is as follows:

*“• children with fifth birthdays between 1st September and 31st December are offered places from the start of the Autumn Term.
• children with fifth birthdays between 1st January and 30th April are offered admission part-time from the beginning of the Autumn Term. (Staggered if necessary, up to half term) and full time from the beginning of the Spring Term.
• children with fifth birthdays between 1st May and 31st August are offered part-time places after the Autumn Half Term holiday and full-time from the start of the Spring Term.
Headteachers have some discretion to offer provision earlier in the Autumn Term.”*

26. The council has assured me that this statement incorrectly describes its practice, which is that all children are offered a full-time place in the September following their fourth birthday, as required by the Code, paragraph 2.16. It had not updated the wording in its composite prospectus when this change was made. It has stated that it will issue an addendum to its prospectus for admissions in September 2014.

Conclusion

27. I have concluded that the variation which the council has requested is a reasonable response to the significant change in circumstances which it has described to me.

28. I therefore approve the requested variation to the admission arrangements of Cullercoats Primary School and of King Edward Primary School for September 2014.

29. I have also concluded that since no admission arrangements for September 2014 for Monkhouse Primary School have been determined, I am unable to make a determination about a variation to them.

Determination

30. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by North Tyneside Council for Cullercoats Primary School and for King Edward Primary School.

31. I determine that for admissions in September 2014 the catchment areas of each school shall be expanded to include those areas set out in the council's request.

32. I have considered the arrangements determined for Cullercoats Primary School, for King Edward Primary School and for the other schools for which the council is the admission authority for September 2014, in accordance with section 88I(5). I determine that they do not conform with the requirements in relation to admission arrangements as set out in this determination.

33. 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 amend its arrangements as quickly as possible, but no later than 15 April.

Dated: 14 February 2014

Signed:

Schools Adjudicator: Dr Bryan Slater