

## **DETERMINATION**

**Case reference:** ADA/002453

**Objector:** A parent

**Admission Authority:** North Somerset

**Date of decision:** 22 July 2013

### **Determination**

**In accordance with section 88 H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by North Somerset Council for community and voluntary controlled schools.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Officer of the Schools Adjudicator by a parent, about the admission arrangements (the arrangements) for community and voluntary controlled schools in North Somerset, the local authority (the LA), for September 2014. The objection is to the determination of a two tier system, with separate and differing arrangements for urban and rural primary schools that creates inequality and unfairness; and to the differential priority given to siblings when this is considered in conjunction with distance from school. The objector asserts that the system is unfair and benefits families living in affluent rural areas. He contends that the arrangements are difficult for parents to understand

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the LA, which is the admissions authority for all community and voluntary controlled primary schools in the area. The parent submitted his objection to these determined arrangements on 23 June 2013. 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:

- the objector's form of objection dated 23 June 2013;
- the LA's response to the objection dated 28 June 2013;

- a copy of the LA's determined admission arrangements for 2014/15;
- a copy of the decision record of the Executive Member for Children and Young People's Services, which approved the arrangements for 2014, dated 8 April 2013;
- the composite prospectus for parents seeking admission to schools in the LA area in September 2013;
- a map of primary school catchment areas provided by the objector; and
- LA maps of schools in Weston-super-Mare and in North Somerset.

### **The Objection**

5. The objector says that the LA operates a two tier admissions system for primary schools. He has specifically excluded the arrangements of voluntary aided schools from his consideration of the two tier system and refers instead to the arrangements for community and voluntary controlled schools in rural and urban areas. In his view the system creates inequality because it does not provide 'a level playing field' for all parents in the LA area.

6. The objector feels that the system protects the rights of parents in affluent rural areas to have better access to their local school but does not afford the same opportunity to parents living in the more urban areas. This is because some schools offer priority to children with a sibling link regardless of home address. Other schools which have been classified as rural, rightly or wrongly, prioritise children living closer to the school before children who have a sibling who attends the school. It is his view that this creates unfairness and a lack of equal opportunity for all parents.

7. The objector believes that this two tier system causes injustice since the arrangements for all community and voluntary controlled schools are not the same. He believes this makes it difficult for parents to understand.

### **Background**

8. North Somerset is a unitary authority and has administrative headquarters in Weston-super-Mare. It borders the local government areas of Bath and North East Somerset, Somerset County Council, Bristol City Council and South Gloucestershire Council

9. In the LA area there is the large urbanised area of Weston-super-Mare and a number of small coastal towns, villages and hamlets.

10. The LA has determined arrangements for community and voluntary controlled schools that set differing oversubscription criteria for urban and for rural schools.

## Consideration of Factors

11. The objector contends that a two tier system, one that has two different sets of oversubscription criteria 'creates inequality because it does not provide a level playing field for all parents in the LA area.' He cites two cases to illustrate his opinion that the arrangements are inherently unfair, in that there are differing oversubscription criteria for schools designated as rural and for those deemed to be in urban areas:

- Child 1, lives close to school A (a rural school). He has a sibling who attends a different school (B, an urban school) which is further away from his home. The parent of this child can express a preference for either school A or B and would have a higher priority for either school than Child 2.
- Child 2 lives close to school B. He has a sibling who attends school A, a rural school. The parents of this child are unlikely to have their preference met because they 'fall foul of the sibling link priority in their local school but cannot use the sibling link at school A.'

12. I shall consider each set of arrangements in turn. The arrangements for rural schools give first priority in the oversubscription criteria (Bi) to 'looked after children and previously looked after children', as required by the Code. They go on to state:

B ii Children with a brother or sister who was attending the school prior to September 2008 and either he/she or any younger brother or sister will be attending the school at the time of admission.

B iii Children with a brother or sister who started attending the school after or during September 2008 and he/she will be attending the school at the time of admission, where it is the nearest school to the home address.

B iv Children, where it is the child's nearest school to the home address.

B v Children, where it is not the child's nearest school to the home address, with a brother or sister who will be attending the school at the time of admission.

B vi Children living closest to the school.

13. The LA explained that it had introduced the different criteria for rural schools after they became aware of a developing pattern that growing numbers of children in rural areas were being denied places at their local or village school, by others who lived much further away, but nearer to other schools. The LA explained that for families in rural areas it can be harder to reach other schools, and attending the local school is seen as part of village life. In these areas, being refused a place can have more of an impact than in urban areas, and can cause social isolation for the children concerned, who are then not able to take part in community activities organised by the school. However, the objector says that in his view it is just as important for families in urban and suburban areas to be able to take part in community life.

14. The LA has advised me that occasionally four year olds living in rural areas have had to be transported by taxi to alternative schools, which can be unpopular with parents. Alternative schools tend to be much further away and if rural based families do state a preference for one of these, they are advised that they will have to arrange their own transport. The LA believes that for these reasons, parents are more likely to make the local or village school their first preference.

15. It is the experience of the LA that on the whole, children from rural areas generally do not attend urban schools and vice-versa but there are always a few exceptions. However, some rural schools on the fringe of urban areas have been under slightly greater pressure than isolated ones. The rural school criterion helps to ensure that local children obtain places ahead of those in nearby urban areas who have other choices open to them.

16. I shall now move to consider the arrangements for urban schools which also give first preference to looked after and previously looked after children (in Ai). The oversubscription criteria then state:

A ii Children, with a brother or sister who will be attending the school at the time of admission.

A iii Children, where it is the nearest school to their home address, who live more than a distance of 2 miles from that school measured by the shortest available walking route.

A iv Children living closest to the school.

17. I asked the LA what happens to a child (A) for whom a school is the nearest school to the home address, but who does not live over 2 miles away and yet finds that there are other children who live closer to the school and thus gain priority, leaving the child A without a place. The LA explained that when any school is oversubscribed there will always be children who do not gain a place at their first preference school and other stated preferences will then be considered. If none of these have places available or in cases where parents have not expressed other preferences, then they will be allocated a place at the nearest school to their home which has capacity to admit them. However, the LA noted that it allocated very few under the A iii criteria, and that it had not had to allocate a place using this criterion for at least the last three years.

18. The LA accepts that while urban areas have a much larger number of schools within close proximity, it may still be difficult for some parents to work out which is their nearest school, particularly where families live midway between two schools or close to several schools. A family may be allocated the next nearest school, particularly if they move into the area mid-year and the nearest school is full. Some families in this situation are happy with the school as it is close to home, but are unable to obtain a place for a younger sibling when they are ready to start school, again because it is not the nearest school to their home.

19. The LA notes that it is not required to have the same admission arrangements for all schools and that voluntary aided schools will have differing arrangements; and as the number of academies and free school increases, which are their own admission authorities, there is the potential for an even greater range of differences in the arrangements for schools in the area. I have concluded that there is nothing inherently unfair about this two tier system of arrangements, as they take account of the differing circumstances that pertain in urban and rural areas.

20. The objector says that some schools offer priority to children with a sibling link regardless of home address but others which have been classified as rural, rightly or wrongly, prioritise children living closer to the school, before children who have a sibling who attends the school and in his view the system protects the rights of parents in rural areas to have better access to their local school.

21. Rural communities by their very nature serve smaller populations and in some periods they need to attract and recruit pupils from outside their catchment in order to remain viable financially. They are more likely to be affected by any significant changes in pupil numbers, which in turn could impact on staffing levels and curriculum delivery. The LA says that in some years, parents from urban areas had successfully expressed preferences for rural schools when there was space available. It had become clear that in subsequent years when there had been higher demand from within a local area, children living near to the school had been unable to gain a place, because children living further away benefited from an oversubscription criterion that gave priority to siblings without any qualification. For local families refused admission to their local or village school, there were generally few options and the alternative schools in other communities, could be some distance away, which would require the LA to provide home to school transport.

22. I asked the LA to explain the significance of the year, 2008 within the arrangements for rural schools for 2014. The rural criteria were introduced in 2008, but in order to protect those families from urban areas who had successfully applied for a place at a rural school before the criterion was changed, the LA introduced a transition period which is reflected in criterion Bii. The LA felt it would be unfair to these particular families to make this change without a transition period, as without the benefit of it, they could be in a position where they had children at different schools through no fault of their own.

23. However, after 2008, families that elected to place a child in a rural school would have been fully aware that siblings would be considered after those children for whom the school in question was the nearest school. The LA felt that the change to the criteria provided better opportunities for families in rural locations to gain access to their local school, because in general they have fewer alternative choices of schools close to home, when compared to families in an urban locations where there are often several schools which are easily accessible.

24. I explored with the LA the impact of the two tier system on parental preferences. For admission in 2013, 88.31 per cent of first preferences were met for all North Somerset schools. This includes community, voluntary controlled and voluntary aided schools and academies. If community and voluntary controlled schools were taken separately then in urban schools 89 per cent of first preferences were met, that is 1120 out of 1258; and in rural schools 96 per cent of first preferences were met, that is 611 out of 639.

25. Although a greater proportion of first preferences were met in rural areas compared to urban areas the LA says these figures tend to reflect the fact that there is a higher level of oversubscription in urban areas. In its view this is not surprising because in urban areas children are generally able to reach more than one school, and so this raises the potential for families making a first preference for a school that might not be their nearest. With equal preferences they can select a school that is further away but still easily accessible and decide to put it as a first preference, and then put their nearest school as a second or third preference. In rural areas the majority of parents have tended to put their local school as their first preference.

26. The LA says that it continues to consider whether or not it might use the same criteria for all schools across the area and this is kept under review by the council's scrutiny committee, which considers responses made to its annual consultation on arrangements. I have read the report on the LA's consultation on the 2014 arrangements. There were only a very few responses but even amongst those, there were opposing views about the priority that should be given to local children or to siblings.

27. While the objector does not wish to include consideration of the impact of the arrangements of aided schools, academies or free schools, the combined arrangements clearly impact on the chances of any parents in any local area having their first preference met.

28. In my view it is not the case that parents in rural areas have a greater 'right' than parents in urban areas to express a preference for the school of their choice. All parents have an equal right to express a number of equal preferences. Overall the number of places at schools within rural communities, often with low density of population is smaller and in my view it is entirely reasonable for the LA to exercise its duty to ensure that school places are available for all children and to take into consideration the impact on communities; and the costs to public funds of school transport that must be provided for primary age children who have to travel over two miles to school.

29. In his final point the objector states that in his view the arrangements benefit parents living in more affluent rural areas. However no evidence has been presented to support the contention that families who reside in the rural areas of North Somerset can be considered to be any more or any less likely to be affluent than the families who reside in urban areas

30. I have considered fully the points raised in the objection about the equity and fairness of having two sets of arrangements for community and voluntary controlled schools, one for urban schools where there is likely to be

a much greater degree of choice for parents and one for rural areas where failure to gain admission to the local school, which is often the only available school, has in the past resulted in the requirement for the local authority to provide home to school transport. In the primary phase, in some outlying areas this has meant a long taxi ride for young children, as they are transported to a school in a different community.

31. In urban areas with its greater density of population it is far more likely that there will be several schools within walking distance for parents to express a preference for. Urban primary schools are generally larger than rural schools, although there is always the exception to the rule. An examination of size of schools in the LA area indicates that on the whole the majority of rural schools have a published admission number (PAN) of 30 or fewer, while the majority of urban schools have two forms of entry. There are only four urban schools with an intake lower than 30; four have a PAN of 45, twelve have a PAN of 60 and four have a PAN of 90. Even with more places available in urban schools, I accept that this may not guarantee that parents will successfully gain a place in the school that is closest to their home, since there are other variables that affect the outcome of applications for places, including the historic pattern of admissions and the different ranges of oversubscription criteria that are determined by schools which are their own admission authority. However, there will be other viable options open to parents and opportunities to seek admission in urban schools that are both local and accessible and a level of choice and diversity for parents in urban areas that is often not available to parents who live in rural areas.

32. In summary then, for the reasons given above, I do not agree that the LA as the admission authority for community and voluntary controlled schools must have single system for all schools in the area, or that the two tier system creates inequality or is unfair. The objector specifically excluded the arrangements of voluntary aided schools from his consideration and has focused instead on rural community and voluntary controlled schools but in my view it is not reasonable to exclude certain schools from consideration, when the collective arrangements of all schools will have an impact on the outcome of the preferences expressed by parents.

33. The objector contends that the system protects the rights of parents in affluent rural areas to have better access to their local school but does not afford the same opportunity to parents living in the more urban areas. There is no evidence presented to support this view. Consultation by the LA has not provided any consistent or strong preference from respondents about the most preferred oversubscription criteria. Instead the LA has responded to a changing pattern of admissions and to the concerns of parents when it became clear that with increasing pupil numbers, children in outlying communities were being denied places at their local schools. A consequence of this was that a greater proportion of public funds were diverted into the provision of school transport. In qualifying the oversubscription criteria that relate to the admission of siblings in rural schools, the LA has in my view,

acted in accordance with its duty to ensure that there are sufficient places available, in the right places to accommodate all school age children in the area.

34. Finally, the objector states that it is difficult for parents to understand a two tier system. Paragraph 15a of the Code requires that all schools have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school. Admission arrangements are determined by admission authorities. The Code says in paragraph 1.10 that it does not provide a definitive list of acceptable oversubscription criteria and states that it is for admission authorities to decide which criteria would be most suitable according to local circumstances.

35. The LA says that it always endeavours to ensure that the admission arrangements are as clear and fair as possible and success in this is reflected in the high levels of parental preferences that are met. It cites the figures for 2013 when it was able to offer 97 per cent of applicants one of their first three preferences. The LA fully accepts that no system offers a perfect solution and that some families will not get one of their preferences and instead will be allocated a school further away.

36. The shift in national education policy towards providing choice and diversity in education has opened up the possibility of parents considering schools other than their nearest; and also for schools to offer a service to their catchment area and beyond. The policy of the LA is very clearly laid out for parents; it identifies schools, classifies them into the two groups, urban and rural and publishes separate oversubscription criteria for urban and rural schools.

37. Paragraph 14 states that, 'In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.' I do not accept the objector's contention that the arrangements are difficult for parents to understand.

## **Conclusion**

38. For the reasons given above I do not uphold the objection to the two tier system within the arrangements of the LA is inherently unfair in that there are differing oversubscription criteria for rural and urban community and voluntary controlled schools.



## **Determination**

39. In accordance with section 88 H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by North Somerset Council for community and voluntary controlled schools.

Dated: 22 July 2013

Signed:

Schools Adjudicator: Carol Parsons