

## DETERMINATION

**Case reference:** ADA/2539

**Objector:** A Parent

**Admission Authority:** Derby City Council

**Date of decision:** 28 August 2013

### **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 determined by Derby City Council for community and voluntary controlled schools in Derby.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.**

**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 School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent, the objector, about the admission arrangements for schools in Derby for which Derby City Council, the local authority (the LA) is the admission authority. These schools are community or voluntary controlled schools (the schools) within Derby. The objection is to the absence in the oversubscription criteria: for admission to junior schools in 2014 of any priority for to pupils attending an associated infant school; and of priority for admission to an infant school of a sibling of a child at an associated junior school; and to the lower priority for admission to schools of out of catchment siblings.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by Derby City Council which is the admission authority for the schools. The objector lodged her objection to these determined arrangements on 30 June 2013 and submitted the full details of the objection on 16 July 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:
  - a. the objector's email of objection dated 16 July 2013 and subsequent correspondence;
  - b. the LA's response to the objection and supporting documents;
  - c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2013
  - d. map of the area identifying relevant schools;
  - e. confirmation of when consultation on the arrangements last took place;
  - f. copies of the minutes of the meeting of the LA at which the arrangements were determined; and
  - g. a copy of the determined arrangements.

### **The Objection**

5. The objection is to:
  - a) the absence in the oversubscription criteria relating to the admission of children in 2014 to junior schools (year 3) of any reference to children already attending year 2 of an 'associated' infant school;
  - b) the absence in the oversubscription criteria relating to the admission of children in 2014 of any reference to the priority for admission to an infant school because an older sibling attends the 'associated' junior school; and
  - c) the low priority in the oversubscription criteria given to siblings who live outside the catchment area of a school.
6. The objector compares the progression of pupils from year 2 to 3 in a primary school with children moving from an infant to a junior school and suggests that the arrangements are not fair for all year 2 pupils across Derby.

### **Other Matters**

7. In addition to the objection I have also considered the arrangements in accordance with section 88I(5) to determine whether or not they are fully compliant with the requirements of the Code.

## Background

8. There are 72 schools in the LA's area which provide education for primary age children. Of these 42 are primary schools, 16 are infant schools and 14 are junior schools. The LA is the admission authority for 55 of these schools and either the governing bodies or proprietors are the admission authorities for the remaining 17. These 17 schools are free schools, voluntary aided schools or academies.
9. Although no change to the admission arrangements for the schools was included in the proposals, the LA chose to consult on arrangements for admission to schools in September 2014 between 10 December 2012 and 4 February 2013. The LA's admissions forum met to review the consultation on 4 March 2013 and it was reported to the forum that no objections or comments had been received on the arrangements during the consultation period. The objector did not make a submission to this consultation. The forum recommended that the arrangements were formally adopted by the LA. At the council meeting on the 20 March 2013 they were formally determined and subsequently published.
10. The oversubscription criteria for 2014 were published as follows:
  - 1) *A 'looked after child' or a child who was previously looked after but immediately after being looked after became subject to an adoption, residence, or special guardianship order. A looked after child is a child who is (a) in the care of a local authority, or being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in section 22(1) of the Children Act 1989).*
  - 2) *Children who are both living in the catchment area served by the school and have brothers or sisters of compulsory school age still attending the school at the time of their admission.*
  - 3) *Other children living in the catchment area at the time of admission.*
  - 4) *Children who do not live in the catchment area served by the school but who have brothers or sisters of compulsory school age still attending the school at the time of their admission.*
  - 5) *In the case of voluntary controlled church schools, children whose parents request a place on religious grounds as stated on their application form.*
  - 6) *Other children whose parents have requested a place.*
  - 7) *Children whose parents did not request a place by the closing date.*

*In categories 2 to 7, when choices have to be made between children satisfying the same criteria, children living nearest to the school measured by a straight line have priority.*

*Pupils who have a statement of special educational needs, which the Local Authority considers can best be met in a particular school, will be given priority over all others. The over-subscription criteria do not apply to statemented children.*

## **Consideration of Factors**

11. As the objection is to the lack of priority for admission to a junior school for pupils attending an “associated” infant school, the lack of priority for admission to an infant school because an older sibling attends the junior school and to the low priority for siblings who live outside the catchment area of the junior school I have considered what the Code says about priority for attending a particular school and the priority for siblings in oversubscription criteria. I have also taken into account paragraph 14 of the Code which 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.”
12. The objector uses the term ‘associated’ schools when referring to infant and junior schools which are close to each other both geographically and in terms of shared activities. The LA refers to such schools as ‘neighbouring’. Neither of these terms renders the infant and junior schools a linked part of each other because they retain their complete autonomy as separate schools.
13. The Code at paragraph 1.9b states that “It is for admission authorities to formulate their admission arrangements, but they **must not** ...b) take into account any previous schools attended, unless it is a named feeder school”. It goes on to say at paragraph 1.15 that “Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds”.
14. The Code does not require an admission authority to name feeder schools and sets terms to be met if it chooses to do so. It is the duty of the admission authority to formulate the arrangements for community schools and this LA has determined not to use feeder schools as any part of them. The objector disagrees with this view.
15. Priority for admission of siblings is permitted as part of oversubscription criteria and is covered in the Code by paragraphs 1.11 and 1.12. These state that “Admission authorities **must** state clearly in their arrangements what they mean by ‘sibling’ .....” and “Some schools give priority to siblings of pupils attending another state funded school with which they have close links (for example, schools on the same

site, or close links between two single sex schools). Where this is the case, this priority **must** be set out clearly in the arrangements.”

16. As with feeder schools there is no requirement in the Code that siblings must be given priority, only that if priority is afforded there are terms to be met in doing so. The arrangements give priority to siblings living in the catchment area and after other children in the catchment area the next priority is for siblings from outside the catchment area. There is no priority for siblings who apply for admission to the infant or junior school based on a sibling already attending the “neighbouring” school.
17. The objector has first-hand experience of a child who lives out of the catchment area of her infant school looking forward to progressing to the neighbouring junior school with her friends. The child is in a mixed age class of year 1 and 2 children and has seen classmates being prepared for the move to the junior school. The two schools have close links and often share assemblies and social occasions. The objector suggests that as an out of area child the application for a place at the junior school may not be successful if there has been an influx of children into the catchment area.
18. The objector also looks forward to a time when her child is attending the junior school but suggests that there may not be sufficient places for a sibling to be admitted to the neighbouring infant school. She suggests that, as there is no criterion which would support this admission, her family would be disadvantaged. She goes on to say that the sibling should be provided with priority over new children moving into the area.
19. The LA has provided data on admissions to its schools to illustrate why it does not give priority in the way the objector would wish.
20. The LA’s arrangements are based on having catchment areas for schools and children having priority for admission to their catchment area school. The LA gives details of the high success rate for applications to its schools both from within and outside catchment areas and cites this as evidence for the oversubscription criteria being reasonable, clear, objective, and procedurally fair in line with paragraph 1.8 of the Code. The objector is concerned that increases in the local population might make the success of out of area applications less likely. The LA has provided details of short and long term planning for school places and is confident that the historic success rates will be maintained. While it is not possible to predict accurately the trends in population in the LA I am satisfied that the LA is taking appropriate actions to monitor these trends and is confident that the previously high proportion of successful applications should continue. I have no evidence to contradict this view and therefore I consider that the arrangements are compliant with paragraph 1.8 of the Code.
21. The LA emphasises the importance of local schools being available for local children. However, there is a firm commitment to provide a system where parental preferences for a school, even if out of the catchment

area, stand a good chance of the child being admitted. The LA reviews the number of children in the area and the projected numbers annually and has undertaken a programme of school expansion and raised admission limits across a number of schools in the city in line with projections for population growth. This has provided approximately 500 additional reception aged places

22. The LA provided details of the junior school admissions for September 2013 when 97 per cent of first preference places were successful with two per cent being offered their second preference and 0.4 per cent their third. The remaining 0.6 per cent (six children) were allocated places at four different schools. The LA suggests that this is evidence which supports its view that the admission arrangements for junior schools are objective, fair and equitable.
23. In terms of admission to a reception class of an out of area child who has a sibling attending a neighbouring junior school the LA suggests that parents are provided with sufficient detailed information about admissions to allow for these applications. Historically, this process has been successful with all but one school offering out of area sibling applications places at the preferred school in 2013. The one school unable to offer the places was a primary school.
24. The LA provides information that in September 2013 seven of the 14 junior schools has spare capacity and were under subscribed.
25. The LA records this information as evidence that it is providing an admission service which provides sufficient school places both for local children and for those whose parents wish to apply for a school outside their catchment area. The LA places significant importance on keeping families together and criteria relating to siblings are second and fourth in the over subscription criteria. Criterion 2 is for siblings living within the catchment area attending the same school at the time of the application and criterion 4 is for siblings living out of the catchment area. Criterion 3 places higher priority for children living in the catchment area than for the siblings of out of catchment area children and the objector suggest that this is unfair. She suggests that it is logical for 'a current year two pupil to be more important when selecting who can move up to the junior school than a child who lives closer who has never attended the school.' The stated view of the LA is that priority should be given to children living within the catchment. It is my view that as the arrangements are compliant with the Code it is the LA's right to make this judgement. I do not consider it unfair to give priority to children living in the catchment area of a school over those who live in a different catchment area and have a school for which they have priority for admission. To give priority for admission to an out of catchment child may result in a child in the catchment not gaining a place and then not having priority for a place in another catchment area. I accept the LA's view that children living in a catchment area should have priority for that school, including higher priority than out of catchment siblings.

26. I understand that parents wish to see their children progress with friends to a new school and that young children, particularly, may find it difficult to understand why this might not be the case. I also understand that it is beneficial for parents of more than one child to form associations with one group of schools. It is also more convenient for parents to take and collect children from schools in the same area.
27. The LA argues that the arrangements currently in place do provide adequately for transition from infant to junior school and in addition provides for parents of children in primary schools to apply to move the child to a separate junior school at the end of year 2. In 2013, 27 such applications were processed and 20 of these were offered a place at their preferred junior school.
28. The objector considers it unfair that pupils wishing to progress to year 3 of a primary school do not have to apply for that place whereas those in year 2 of an infant school must apply to another school. I am of the view, however, that this is due to the type of school rather than as a result of the LA's admission arrangements. Further, I am of the view that the LA has taken appropriate measures to ensure maximum success for parental preferences.
29. While the LA places importance on sibling admissions it has determined that catchment area children should have a higher priority. It is a matter of personal viewpoint as to whether or not a local child should take priority over the sibling of an out of area child and the objector and the LA have different views on this point. It is understandable that parents living out of the catchment areas will take a different view from the LA. I am of the view that children living near to a school should not be disadvantaged because they are recent arrivals in the area and, taking all the evidence into account, I consider the priority order for sibling admissions to be fair and in line with the requirements of the Code.
30. I would like to draw the attention of the admission authority to another area of the arrangements which does not comply with the Code. The Code requires admission authorities to include a tiebreaker so that in the event of two children living the exact same distance from the school there is a clear process for deciding who should be allocated a place. No tie breaker is currently included in the admission arrangements. This addition is needed to meet the requirement in paragraph 1.8 of the Code which states "...Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated".

## **Conclusion**

31. For the reasons set out above I have concluded that the processes and procedures of the LA are compliant with the Code in terms of admission arrangements for children transferring from infant to junior school.

32. I do not uphold the objection to the absence of priority for admission to a junior school for children attending an associated infant school; or relating to the admission of children to an infant school because an older sibling attends the associated junior school; or to the level of priority given to siblings of out of catchment children.
33. I consider that the admission arrangements in these respects are fair and that they are compliant with the Code.

### **Determination**

34. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Derby City Council for community and voluntary controlled schools in Derby.
35. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.
36. 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: 28 August 2013

Signed:

Schools Adjudicator: Mrs Ann Talboys