

DETERMINATION

Case reference: ADA/002198

Objector: An eligible parent

Admission Authority: Hampshire County Council

Date of decision: 24 August 2011

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 Hampshire County Council, for Hamble Primary School, a community primary school.

The referral

1. An eligible parent (“the objector”) has referred an objection to the Adjudicator about the admission arrangements (“the arrangements”) for Hamble Primary School (“the School”), a community primary school on the grounds that the arrangements are unfair.

Jurisdiction

2. The arrangements were determined under section 88C of the School Standards and Framework Act 1998 (“the Act”) by Hampshire County Council (“the Council”), which is the admission authority for the School. An eligible parent submitted the objection to these determined arrangements on 5 July 2011. This objection has been properly referred in accordance with section 88H (2) of the Act. I am satisfied that I have jurisdiction to consider the arrangements under the Act and that it falls within my jurisdiction.

Procedure

3. In coming to my conclusions, I have had full regard to the relevant legislation and guidance.
4. The documents I have considered in reaching my decision include
 - An objection from an eligible parent dated 5 July 2011;
 - the response from Hampshire County Council including supporting documentation and subsequent correspondence;
 - minutes of the Hampshire Admission Forum of 10 March, 2011;

- the Council's booklets 'A Parents Guide to Applying For a School Place' ;
- Maps of the Hamble Area Primary Catchment Areas;
- A copy of the determined arrangements for Hampshire County Council's Community and Voluntary Controlled primary, Infant and Junior Schools 2011/12;
- A decision report from the Director of Children's Services to the Executive Lead Member dated 6 April 2011.

The Objection

5. An eligible parent has objected to the admission arrangements determined by the Council for Hamble Primary School on the grounds that they are unfair. The objector refers specifically to the oversubscription criterion relating to children living within the catchment area and the straight line distance measurement that is applied, when there are more applicants from within catchment than the number of available places.

Background

6. The village of Hamble in Hampshire is situated on a peninsular and the catchment area of Hamble Primary School which serves the village is bordered to north by the area of Burleson, with Southampton Water to the west and the Hamble River to the east.
7. Families within the community have become aware that the School will have more applicants than places for 2012/13 and parents have been advised that the standard oversubscription criteria for community schools will be applied. The first 4 of these, relevant to the objection are as follows:-
 1. *Children who are in the care of a local authority or provided with accommodation by that authority in accordance with Section 22 of the Children Act 1989. (A letter from the Children's Services Department confirming the child's status must be provided.)*
 2. *Children or families who have a serious medical, physical or psychological condition which makes it essential that the child attends the preferred school rather than any other. (Appropriate medical or psychological evidence must be provided in support.)*
 3. *Children living **in** the catchment area of the school who at the time of application have a sibling on the roll of the preferred school or its linked infant or junior school who will still be on roll at the time of the sibling's admission.**
 4. *Other children living **in** the catchment area of the school.*

8. The Council's admissions booklet explains to parents: "*If the school is oversubscribed from within any of the above categories, straight line distance will be used to prioritise applications; applicants living nearer the school have priority. Hampshire County Council's Geographic Information Systems (GIS) will be used to determine distances (normally from the Ordnance Survey home address point to the school office)..... This method of prioritising admissions will also apply to any 'school specific' criterion*".
9. The objector acknowledges that while arrangements may be fair to applicants in the majority of schools in the county, it appears to be extremely unfair in Hamble Village because of its position on a peninsular, surrounded by water. Because the School is situated on the outskirts of the village, families living in the heart of the village close to the River Hamble are furthest away from it and therefore least likely to be offered a place. The objector contends that these families are effectively hemmed in by water and do not have an alternative school that is closer when actual travelling time by road is taken into account. Yet it is these families which live furthest from any alternative school who are most likely to be denied a place and that in the view of the objector, this is unfair.
10. The objector believes that the distance measure used by the Council would suggest that Hook with Warsach Primary School is the closest but this takes no account of the route that families might actually have to travel to school, since there is no way of crossing the Hamble River at this point, to provide a short cut or straight line access. Other families living closer to the School would have shorter journeys to alternative schools.
11. The objector is aware that the Council operates School Specific Criteria (SSC) in other local areas and cites the case of one of the local secondary schools situated across the river, where families living close to the water but who would otherwise have to travel past the school to attend an alternative school, are afforded priority. The objector states that it is unacceptable in her view "*.....to acknowledge the problem of the river in one area and not another.*"
12. During the consultation period the objector raised the possibility of a SSC for Hamble Primary School. This was considered and rejected by Hampshire Admissions Forum.
13. The objector firmly believes that the best solution would be for the local school to admit all children within its catchment area.

Consideration of Factors

14. The Objector has not referred to specific aspect of the School Admissions Code ("the Code") in her objection, but is clear that in her view the Council's admission arrangements are unfair so I have identified those of its provisions which may be relevant. Paragraph 1.71 of 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.” Furthermore, paragraph 1.71c requires that”in drawing up admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places “are procedurally fair for all groups of children”. As these are mandatory requirements I am satisfied that this objection has been correctly referred.*

15. The Code sets out a number of principles which provide a framework for assessments of fairness and equity. For the purposes of this adjudication I need to be satisfied as to the general fairness of the arrangements and to compliance with the relevant specific requirements and expectations of the Code.
16. The Council rightly gives no guarantee that all pupils living within a school’s catchment area will be admitted, but parents will have a strong expectation that places will usually be available at their catchment area school. In cases of oversubscription the Council uses distance between home and school as a tie-breaker. It provides a clear explanation to parents about how distance will be measured and uses a reliable system that parents can easily understand. The tiebreaker that is used is clear and objective.
17. The particular oversubscription criteria applied by the Council are widely used nationally and do not in themselves contravene any mandatory requirements of the Code. The County Council's view is that its admissions policy and arrangements are compliant with all relevant legislation and I agree with this view.
18. However admission authorities must take account of factors that might unfairly advantage one child compared to another. Paragraph 1.67 requires admissions authorities to ensure that their admission arrangements do not disadvantage, either directly or indirectly, a child from a particular racial or social group and further, states that they **should** develop and implement over-subscription criteria which actively promote equity. As a result, the issue of relative proximity to the School is more complex.
19. In my view it is important that due consideration is also given to paragraph 2.36 of the Code which states that in establishing their oversubscription criteria “admission authorities **should** take account of the time it will take to travel to school, as well as, the safety of the route, the need to encourage cycling and walking and the availability of public transport.” and in paragraph 2.38 it goes on to add that “It is good practice to give priority to children who could reach one school (but not others) by public transport, or to children who would have a disproportionately long journey to another school if denied admission to their nearest school.” Whilst these aspects of the Code are not mandatory they do raise issues that the Council will want to consider further.

20. When current arrangements are applied in this particular geographic location some families within the catchment area are, evidently disadvantaged and the use of this straight line measurement particularly affects families living near to the tip of the peninsular since they live furthest away from the school which is situated on the outskirts of the village. These families do not have another alternative primary school that is closer to their homes and therefore the application of the distance criterion would result in children having to travel past the School to alternative schools outside the area, although not a great distance as there are places in alternative schools within 2.8 miles.
21. Whilst the Council has made clear how oversubscription criteria will be applied as required by Code 1.71 there is still a small measure of uncertainty about the application of the distance measure. The Council explained that it would always prefer that families do not have to face the prospect of travelling past their full catchment area school on route to a next nearest alternative place but with complicated urban and rural geography this cannot always be avoided. In this case the Council will not be measuring distance across a body of water and offering a place in Hook with Warsach School as the objector fears but would offer a place at the nearest school accessible by road.
22. During the formal consultation on admissions the objector raised the possibility of having School Specific Criteria (SSC) in the Hamble area and at its meeting in March 2010 a report from the Director of Children's Services noted that the Admission Forum has in the past, recognised that there are some cases where a small amount of flexibility is advisable in relation to individual school policies. This is to avoid situations where rigid implementation of the LA policy would lead to unacceptable anomalies. The required flexibility is delivered through SSC, which includes using walking route as the method for measuring the distance tiebreaker. The report recommended that the Director of Children's Services, having regard to any advice from the Admissions Forum and in consultation with the Executive Lead Member, be empowered to amend the list of SSC as appropriate during the course of the academic year.
23. Governing bodies may apply to the Director of Children's Services to include in their school policy a criterion which they regard as essential if children are to be treated fairly in relation to clearly defined local conditions. In the event of such applications, the Director of Children's Services will consult the Admission Forum and the criterion will then be determined by the Executive Lead Member for Children's Services. Any changes after such determination will be authorised by the Director of Children's Services in consultation with the Executive.
24. In schools where SSC are applied, explanations included in the admission booklet for parents provide evidence of cases that almost exactly mirror the situation in which the objector finds herself. Exemplars of SSC include statements to the effect that priority is given to children living in certain areas meaning that they do not have to go past the nearest school on their

way to an alternative school. Another example explains that *“this criterion ensures that those who live furthest from the school and also furthest from alternative schools will be given priority”*.

25. The objector’s representations were referred by the Council to the Hampshire Admission Forum and minutes note that these were considered, to some extent. They indicate that the Forum was advised of the head teacher’s view that *“.....the school should look to accommodate all the catchment children in this (one off) bulge cohort, rather than look to divide the catchment into those with priority who would gain admission and those living closer to the school who would have to travel to a school further away.”* The Council considered the representations and supported the School’s viewpoint and did not therefore introduce a SSC for 2012/13. It contends that the lateness of the representations, towards the end of the 8 week statutory period for consulting on arrangements, meant that any late changes to proposed arrangements would not allow others to comment on the proposal.
26. The Forum was advised that this matter had been referred to the Strategic Planning Unit for them to look into the school’s ability to accommodate a larger intake in September 2012, within the existing buildings. It is unfortunate that some 5 months after this meeting, no action has yet been taken by the Council to explore the possibility of accommodating additional children who live within the catchment.
27. The Code confirms that local authorities **should** respond to parental representations about the provision of schools in their areas and set out any action which the authority proposes to take, or where the authority believes no action is necessary, their reasons behind that opinion. The Code emphasises the need for fairness throughout and paragraph 1.102 emphasises the duty of admission authorities to be proactive in their attempts to achieve fairness.
28. I am advised by the Council that the issue will be discussed with the School early in the autumn term and that it is most likely that existing accommodation would be used to admit additional in catchment pupils and if necessary extra temporary accommodation could be utilised.

Conclusions

29. Adjudicators are aware that reviewing Council arrangements as a whole, in order to remedy an apparent issue in a single school, would have the effect of changing arrangements in a large numbers of other schools not involved in the objection.
30. I have considered whether the arrangements are unfair in the way prohibited by the Code and have concluded that they are not. All arrangements are bound to discriminate between children – that is inevitable when a school is oversubscribed and decisions have to be made as to which children should be offered places. The Code recognises the

validity of catchment areas but does not permit admissions authorities to give parents an absolute guarantee of a place for all catchment children. Circumstances can arise, particularly for very small schools, where this cannot be achieved and hard choices need to be made between.

31. However the Code requires that parents need to be able to understand whether or not they have a realistic chance of being offered a place for their child at a particular school. Prompt action does need to be taken either to confirm to parents that additional accommodation will be provided at the School or to undertake consultations to consider the introduction of a SSC using the flexibility available to the Council.
32. I accept that the Council would wish to do this only in exceptional circumstances and would prefer in this instance to explore its preferred option of accommodating all catchment area children in this oversubscribed year to the local village school. Admitting above the PAN is a practical solution for one year which would ensure that all children within the catchment are admitted, regardless of where they live on the peninsular but it could not be considered to a long term solution.
33. Local authorities are bound by the Code to ensure fair access to educational opportunity but this does not imply that all parents are guaranteed places in particular schools. I have therefore concluded that the arrangements as a whole, made by the County Council are consistent with the requirements of the Code and, in particular, meet all of its mandatory requirements.

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 Hampshire County Council, for Hamble Primary School, a community primary school.

Dated: 24 August 2011

Signed: 

School Adjudicator: Carol Parsons