

DETERMINATION

Case reference: ADA2597

Referrer: a parent

Admission Authority: Hampshire County Council

Date of decision: 3 June 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Hampshire County Council for Bosmere Junior School for admissions in September 2014 and 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements in the matters shown in the determination below.

By virtue of section 88K(2) of the Act 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. The admission arrangements for admissions in September 2014 (the arrangements) of Bosmere Junior School (the school), a maintained community school for pupils of age range 7-11 years have been brought to the attention of the Schools Adjudicator by a parent. The referral is to the oversubscription criteria which, for children living out of the school's catchment area, give priority to siblings over pupils at the school's linked infant school. The referrer argues that these criteria are neither clear nor fair. Having looked at the arrangements for 2014 I considered that there may be matters that do not comply with the School Admissions Code (the Code) and therefore I also looked at the arrangements for admissions in September 2015.

Jurisdiction

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the Hampshire County Council, the local authority (LA) which is the admission authority for the School. These arrangements were referred to the adjudicator on 21 April 2014. The parent has met the condition of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012, which requires that any person or body

making an objection who wishes to remain anonymous must provide their name and address so that they are known to the Office of the Schools Adjudicator. I am satisfied the arrangements have properly come to my attention in accordance with section 88I of the Act and it is within my jurisdiction to consider them. I am also using my powers under section 88I to consider the arrangements as a whole and the arrangements for 2015.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
 - a. the referrer's email dated 21 April 2014;
 - b. the school's response to the referral and subsequent correspondence;
 - c. the LA's response to the referral and supporting documents;
 - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
 - e. maps of the area identifying relevant schools;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the meeting at which the admission authority of the school determined the arrangements; and
 - h. a copy of the determined arrangements for 2014 and 2015.

The Referral

5. The referrer argues that the arrangements are not clear and are unfair in that, for pupils seeking admission to a junior school, siblings who live out of the catchment area have a higher priority for admission than pupils who attend the linked infant school regardless of distance of the home from school. The relevant section of the Code is found in paragraph 1.8 "*Oversubscription criteria **must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.***"

Other Matters

6. There are two other matters. First, when I looked at the LA's website in late April and again in early May the admission arrangements were shown as proposed not determined, this is contrary to paragraph

1.46 of the Code which requires arrangements to be determined by 15 April and paragraph 1.47 of the Code which requires determined arrangements to be published by 1 May. I note however the website shows it was updated 12 May 2014 and now shows the arrangements as required by the Code.

7. Second, all admission authorities are required to have a tie breaker to decide between applicants who have equal priority. The tie breaker of the LA is by distance that is “...*If the school is oversubscribed from within any of the above categories or subcategories, straight line distance will be used to prioritise applications* “ This does not comply with the Code which requires a means to distinguish between two applicants as in the albeit unlikely situation, two or more applicants living at exactly the same distance from the school could not be separated . Admission arrangements must include an effective, clear and fair final tie-breaker to decide between two applications that cannot otherwise be separated. This should be amended immediately.

Background

8. The LA has more than 400 schools for primary age pupils. They are a mix of primary, infant and junior schools. The LA has a system of catchment areas associated with its schools. In addition, where primary education is provided by separate infant and junior schools there is a link identified in the admission arrangements. There is also a system of school-specific criteria where individual schools’ governing bodies may request the inclusion of a particular criterion.
9. The school admits 90 pupils into year 3 each year. It is linked with an infant school, Fairfield Infant School, which admits 90 children each year. The LA reports that the schools have developed transition activities to support children moving from the infant school to the school.
10. The over subscription criteria for the school in both 2014 and 2015 are, in summary
 1. Looked after children or children who were previously looked after
 2. Children or families who have a serious medical, physical or psychological condition
 3. Children living **in** the catchment area of Bosmere Junior School
 - i. Children who at the time of application have a sibling on the roll of Bosmere Junior School or Fairfield Infant School who will still be on roll at the time of admission. [See 4(i) for additional children who may be considered under this criterion.]
 - ii. Other children living in the catchment area of Bosmere Junior School

4. Children living **out** of the catchment area of Bosmere Junior School:

- (i) Children who at the time of application have a sibling in the roll of Bosmere Junior School or Fairfield Infant School who will still be on roll at the time of admission. [Where a sibling was allocated a place at Bosmere Junior School or Fairfield Infant School in the normal admission round in a previous year because no places were available at the catchment school for their address, the application will be considered under 3(i), above, subject to the address being the same for both applications.]
- (ii) Children who at the time of application are on the roll of Fairfield Infant School.
- (iii) children of staff (who have, (i) been employed at Bosmere Junior School for two or more years at the time at which the application for admission to the school is made, or (ii) have been recruited to fill a vacant post for which there is a demonstrable skill shortage.
- (iv) Other children.

Tie-breaker

If the school is oversubscribed from within any of the above categories or subcategories, 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). Distances to multiple dwellings will give priority to the ground floor over the first floor and so on. On individual floors, distances will be measured to the stairs leading to the communal entrance.

Consideration of Factors

- 11. The first matter raised by the referrer is that the arrangements are not clear.
- 12. The LA argues that it reviews its arrangements after consideration of data, for example number of first preferences and how actual admissions relate to the published admission number. It also permits governing bodies to apply for the inclusion of oversubscription criteria which they regard as essential for the fair treatment of applicants in "*clearly defined local conditions*".
- 13. I accept that these arrangements are, as a consequence, more

varied and some are more complex than for many other admission authorities. There is a mix of types of schools; some parents apply only once for a primary school place and some must apply for a reception and a year 3 place. There is the additional factor of catchment areas and those schools who have school-specific criteria which differ in some way.

14. I agree that finding the information that is needed is not as simple as it might be in smaller local authorities. However, all the required information is available, is explained clearly, and it is possible to find the arrangements for each individual school by clicking on its tab on the website or looking in the composite prospectus. Schools with school-specific criteria are told to publish them on the schools website and in their prospectus.
15. I find that the arrangements are explained sufficiently well to enable parents to find and understand the admission arrangements for schools and to make comparisons between them. I do not therefore find the arrangements not clear as argued by the referrer.
16. The referrer also argues that the arrangements are unfair because siblings gain admission over pupils at the linked infant school regardless of distance of home to school.
17. The LA is permitted to order its oversubscription criteria in the way it has, there is nothing in the Code to say that a child who lives closer to a school must have precedence. Paragraph 1.10 "*This Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances*". However, there is an issue with these criteria which I consider below.
18. The LA has introduced into its oversubscription criteria a sub category of children "displaced by oversubscription", that is children who could not gain entrance to their preferred school, but were allocated to a school.
19. Thus, children who live out of catchment and have a sibling at the school or the linked school will be considered as "in catchment" if they were displaced by oversubscription. The LA explained that there were small but significant numbers (95-125 families) for the last three years in the normal admission round who could not obtain places for all their children in the same school. Consultation indicated that there was concern about the impact on catchment areas if all siblings were given priority so it was decided that "displaced" children would be given priority as shown in oversubscription criteria above. The LA also recognises that families in the school's catchment area do not have priority for an all through primary school and so seeks to keep families together in this way.
20. However, there may be other children applying for a place living out catchment who may also have been displaced by oversubscription,

for example children at the linked infant school and are the first born of their family. Those children do not have the sibling priority for admission to the junior school and therefore may be displaced again in year 3. A child who does not gain a place at his /her catchment school at reception which may well be an all through primary, as there are more of these than separate infant and junior schools, may be allocated an out of catchment infant school place. At year 3 it is unlikely there will be a place at the original catchment area school; I see from the map provided the closest schools are two primary schools, two voluntary aided and two infant and two junior schools. Such a child who then does not gain a place at the linked junior school is displaced twice by the oversubscription criteria.

21. The LA has given the displaced sibling priority in part because it recognises that families who do not have priority for an all through primary school may be disadvantaged because they do not have a single access to the seven years of primary education and have to apply more than once.
22. The LA has sought to address a difficulty for families moved out of catchment against their wishes. There are, or may be, other families who will suffer a detriment from the same cause. The Code at paragraph 1.8 requires that oversubscription criteria **must be** reasonable, clear, objective and procedurally fair. A parent of a “displaced” child looking at these oversubscription criteria would see that a priority is given in one category, siblings, but no priority is given to those children in other categories for example attendance at linked infant school. I view it as unfair and unreasonable to apply the consideration of “displacement” to some children and not apply this consideration to other pupils who are displaced in this manner. For this reason I find these arrangements unfair.

Conclusion

23. I find the arrangements, while varied, to be accessible and understandable. I consider them to be clear as required by the Code.
24. I do not find that the use of a sibling criterion over a linked school criterion for out of catchment pupils requires a consideration of distance; this is not unfair.
25. However, the creation of a sub category for pupils, children displaced because of oversubscription, is not forbidden by the Code and I consider it to be a reasonable response to “displaced” children. However, to give a priority to some children, siblings, on that basis and not others, an only child or a first born child, has the consequence that for out of catchment pupils, siblings in this category have a priority over other siblings, when other children who have suffered the same detriment of being required to attend an out of catchment infant school have no equivalent priority for a place at the junior school. I find this unfair.

Determination

26. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Hampshire County Council for Bosmere Junior School for admissions in September 2014 and 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements.
27. By virtue of section 88K(2) of the Act 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.

Date: 3 June 2014

Signed:

Schools Adjudicator: Miss Jill Pullen