

DETERMINATION

Case reference: ADA2584

Objector: A parent

Admission Authority: London Borough of Richmond upon Thames

Date of decision: 29 April 2014

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 the London Borough of Richmond upon Thames for community primary schools for admissions in September 2015.

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 (the arrangements) for community primary schools (the schools) in the London Borough of Richmond upon Thames, the local authority (LA) for September 2015. The objection is to the provision in the arrangements which states that "Temporary addresses will not be used for the purpose of administering admissions."

Jurisdiction

2. These arrangements were determined under section 88C of the Act on 20 March 2014 by the London Borough of Richmond upon Thames which is the admission authority for the schools. The objector submitted her objection to these determined arrangements on 26 March 2014. 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 26 March 2014;
 - b. the LA's response to the objection set out in its letters of 8 and 14 April and supporting documents and its further comments in

its email of 14 April 2014;

- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
- d. confirmation of when consultation on the arrangements last took place;
- e. copies of the minutes of the meeting of the LA on 20 March 2014 at which the arrangements were determined;
- f. a copy of the determined arrangements; and
- g. emails from the objector dated 31 March and 7, 12 and 14 April 2014 and supporting documents.

The Objection

5. The objector states that she objects to any reference in the arrangements to "temporary addresses" and considers that this provision clashes with paragraph 1.13 of the Code which provides that "Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the "home" address will be determined..." The objector expands on her objection as follows:
 - a. The LA does not have a definition of temporary address, nor is there a definition in law;
 - b. The LA defines a child's home address as "where your child lives". A temporary address provision clashes with the Code because a child's "home" address could be permanent or temporary.
6. The objector has also drawn to my attention an application she and her husband made for permission to apply for Judicial Review. That application related both to the decision by the LA as to what was the objector's "home" address for the purpose of school admissions and the decision by the independent appeals panel for the LA to refuse an appeal for a place for the objector's daughter at a particular school for September 2013. Permission to apply for Judicial Review was refused. I have no jurisdiction in respect of the allocation of a school place for individual children and can consider only whether the arrangements conform to the requirements relating to admissions.

Background

7. The arrangements which are the subject of this determination apply to entry to Reception Year (YR) at all community primary schools in the LA. They were determined by the LA on 20 March 2014. For all of these schools, the arrangements include an element of priority based on the distance between the child's home and the school. The arrangements include a note (which I shall refer to in this determination as the note) to the oversubscription criteria which states that:

“Any offer of a place on the grounds of proximity is conditional on the child being resident at the address provided at the closing date for application. A business address, a childminder’s address, or any address other than the child’s permanent home will not be accepted. Proof of address will be sought and may be the subject of further investigation. Temporary addresses will not be used for the purpose of administering applications.”

8. The LA’s composite prospectus also includes a significant amount of material relevant to determining home address. This includes provisions dealing with house moves both before and after the closing dates for application, provisions about temporary addresses, the treatment of circumstances where more than one property is owned and arrangements for checking Council records in order to confirm the address given. This material also forms part of the arrangements.
9. The arrangements are the same as the arrangements determined in 2013 for admission to the LA’s community primary schools in September 2014. The arrangements for 2014 were consulted on between 17 December 2012 and 11 February 2013 and subsequently determined. Because the arrangements for September 2015 were the same as those for 2014 there was no requirement for consultation before the 2015 arrangements were to be determined as the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 provide that consultation is required at least once in every seven years or when arrangements are proposed to be changed.

Consideration of Factors

10. I have considered very carefully whether this aspect of the arrangements conforms to:
 - a. the specific requirements of the Code which relate to “addresses” and “home”;
 - b. the core principles in paragraph 14 of the Code that the practices and the criteria used to decide the allocation of school places have to be fair, clear and objective and that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.
11. In my deliberations, I have taken account of the points made by the objector and by the LA.
12. The Code contains a number of references to “addresses” and to “home” in the following paragraphs:
 - a. 1.13 which is about the use of distance from the school to home as an oversubscription criterion and provides that “Admission authorities” **must** clearly set out how distance from home to the

school will be measured, making clear how the “home” address will be determined...”;

- b. 2.2 which is about the common application form (CAF) and states that this “**must** allow parents to provide their name, their address (including documentary evidence in support), and the name, address and date of birth of the child”; and
- c. 2.5 which is about applications and offers and states that “Admission authorities may need to ask for proof of address where it is unclear whether a child meets the published oversubscription criteria.”.

13. The Code does not offer a definition of “home” or “address”. This means that these words as they are used in the Code have their ordinary dictionary meanings.
14. Subject to the requirements relating to admissions, it is for admission authorities to determine their arrangements including the oversubscription criteria which are to apply when applications are received for more children than a school can accommodate. Paragraph 1.10 of the Code explains that the Code does not give a definitive list of acceptable oversubscription criteria and that “It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances”.
15. The LA has explained in its response to the objection that it has in recent years received many applications from parents or carers who have claimed to live at one address when in fact their real home address is elsewhere. While the Code does not directly deal with the issue of parents or carers claiming to live at one address while their real home address is elsewhere, it does provide that admission authorities must specify in arrangements how the “home” address will be determined (paragraph 1.13) and does allow them to seek evidence of proof of address (paragraphs 2.2 and 2.5). In these ways the Code recognises that there may sometimes be a debate about where a child lives, in relation to which an admission authority will have to make a decision, and that it is reasonable for admission authorities to take steps to satisfy themselves that the information given in applications for school places is accurate.
16. In this case, the note together with material in the composite prospectus represents the LA’s statement specifying how the “home” address will be determined, in accordance with the requirement of paragraph 1.13 of the Code.
17. For the great majority of applications for school places, there is no doubt at all about a child’s home address as there is no possibility that they might live anywhere other than the address given. This will be the case where a family has owned or rented and lived in that house for

many years or where they are renting with a tenancy agreement or even where they are living in bed and breakfast accommodation where that accommodation is organised through a local authority or housing association. The key fact will be that at the time they apply for a place there is nowhere else they might be considered to live and thus no possible other “home” for the child. The note is seeking to deal with situations where there is potentially more than one “home”, so the LA has to decide which address it is appropriate to use for the home to school distance criterion. In such cases the LA has to consider where the child’s home really is and whether an address is being used temporarily to try to secure a place at a school. As the composite prospectus sets out, this could include situations where a family owns one property and rents another or owns more than one property. It is self-evident that in such cases the parents or carers’ view as to what should be the “home” address for the purpose of admission to school may not be the same as the admission authority’s view.

18. I should be clear that this is not a matter of bureaucracy for its own sake. Where a school can accommodate all who would like a place, it does not matter where applicants live or say they live. Paragraph 2.8 of the Code provides that, with the exception of designated grammar schools, all schools that have enough places available must offer a place to every child who has applied for one. Thus no child will be denied a place because of where he or she might live. However, where a school is oversubscribed awarding a place to one child means denying a place to another. If a family, for example, secured a place for their child at a particular school by renting a flat very close to the school for a short period but not living in that flat or living there only for a short period of time and then moving back to their permanent home, then another child who lived permanently only slightly further away from the school might not gain a place there.
19. It is the case that some families make decisions about where to live in part or entirely on the basis of local schools. Families do move, either selling their former home or ending their tenancy there and purchasing or renting a new home near to the preferred school. Indeed, the LA’s composite prospectus offers quite detailed guidance on what should be done in such cases. Where families have severed their links with a former home, then the new home will be treated as their permanent home under the LA’s arrangements.
20. I believe that the sentence: “Temporary addresses will not be used for the purpose of administering applications.” has to be considered in the context of the note and the material in the composite prospectus as a whole and, in particular, the statement that “any address other than the child’s permanent home will not be accepted.” The arrangements make clear that the LA will investigate cases where it has a concern that an address is being used to secure a school place.
21. The objector states that the LA has not defined “temporary address” and that the term is not defined in law. There is no requirement for

admission arrangements to include only terms which have been legally defined or for admission authorities themselves to define every term they use. What matters is that arrangements conform to the requirements relating to admissions.

22. I consider that the use of “temporary address” is acceptable in these arrangements. First, I think that it is both clear and meets the test that parents should be able to look at a set of arrangements and understand how places will be allocated. The term is used in the sentence in the note “Temporary addresses will not be used for the purpose of administering applications.” This follows directly from the sentences “A business address, a childminder’s address, or any address other than the child’s permanent home will not be accepted. Proof of address will be sought and may be the subject of further investigation.” I consider that parents would understand from the context what is meant here is that, where it appears that a child might live at an address which is not the address stated in the an application for a place, then the LA will investigate. Where there are two (or possibly more) addresses which might be the child’s address, the LA will determine which is the permanent address (using a range of information and factors) and will use that permanent address for the purposes of admission to its schools.
23. Second, where a school is oversubscribed and places are awarded on the basis of proximity to the school, I think it is fair that the admission authority should be able to consider whether applicants really live at the address given and, if there is a possibility that they might live at more than one address, to decide which address should be used for admissions purposes. The Code provides for – indeed, it requires – admission authorities to make clear how the “home” address will be determined. It also provides for admission authorities to seek proof of address. I accordingly consider that the LA’s arrangements are fair.
24. Third, I have considered whether the arrangements are objective. I think that the methods which the LA uses to determine whether an address is “temporary” for the purposes of admissions are objective. I recognise that those who are seeking to argue that a particular address is their “home” address may be disappointed if that address does not meet the LA’s criteria set out in the note. However, I consider that the LA has set out a range of objective factors (including checking Council records, checking whether a home is owned elsewhere and the timing of a move) to be used to assess whether a home is permanent or temporary in the sense in which it is used in the arrangements.
25. Finally, I have considered whether the LA’s arrangements breach the specific provisions of paragraphs 1.13, 2.2 and 2.5 of the Code which deal with questions of “home” and address. I consider that the arrangements conform to these requirements as: they set out how “home” address will be determined; the CAF provides for parents to provide the information specified, and the LA does seek proof of address where it is unclear whether a child meets the published

oversubscription criteria. It is proper for arrangements to take account of whether an address is permanent or temporary in the sense in which temporary is used in the arrangements, that is, where there is a possibility of a different, permanent, address elsewhere. The other paragraph of the Code which mentions address is 1.11 and that is in my view not relevant in this case as it is concerned primarily with the definition of siblings.

26. I consider that the LA's arrangements meet the requirements relating to admissions. I recognise in doing so that not all LAs will adopt the same approach to addresses. However, as the Code makes clear, it is for admission authorities to determine their arrangements in the light of their individual circumstances. Other LAs may well not face the challenges of many oversubscribed schools and instances of claims from parents or carers that they live at one address while really living at another address.

Conclusion

27. For the reasons given above, I do not uphold the objection to the arrangements for admissions to community primary schools in Richmond upon Thames for September 2015.

Determination

28. 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 the London Borough of Richmond upon Thames for community primary schools for admissions in September 2015.

Dated: 29 April 2014

Signed:

Schools Adjudicator: Ms Shan Scott