

## DETERMINATION

**Case reference:** ADA2626

**Objector:** A parent

**Admission Authority:** Gateshead Metropolitan Borough Council

**Date of decision:** 3 July 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 Gateshead Metropolitan Borough Council for admissions to community and voluntary controlled schools in September 2015.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that there are matters as set out in this determination that 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 Admission 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 use and application of catchment areas within the determined admission arrangements (the arrangements) for September 2015 for schools for which Gateshead Metropolitan Borough Council, the local authority (the LA) is the admission authority.

### **Jurisdiction**

2. These arrangements were determined on 29 April 2014 under section 88C of the Act by the LA, the admission authority for community and voluntary controlled schools in its area. The objector submitted the objection to these determined arrangements on 8 May 2014. I am satisfied the objection has been properly referred to me in accordance with section 88H(2) of the Act and it is within my jurisdiction. I have also used my power under section 88I to consider the arrangements as a whole.

### **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 letter dated 8 May 2014;
- b. the LA's response to the objection and supporting documents sent by email on 5 June 2014, including minutes of the meeting on 29 April 2014 when the council determined the arrangements;
- c. the LA's co-ordinated admissions scheme for infant, junior and primary schools in the area;
- d. the LA's determined admission policy 2015/16 for community and voluntary controlled primary schools;
- e. the LA's booklet 'Admission to Primary School'; and
- f. maps of the local area, including those produced by the LA to indicate catchment areas of schools.

### **The Objection**

5. The objector is objecting to the designated catchment area for one particular school and to the designation and use of catchment areas generally by the LA as an oversubscription criterion in its arrangements. The objector contends that: the boundary of the catchment area in the case of one particular school, Kells Lane Primary School, is illogical and unfair; that catchment areas are not used as an oversubscription criterion by a number of neighbouring LAs; and that to prioritise catchment areas above sibling links in oversubscription criteria disadvantages families. In summary, the objector argues that the LA should *"adopt a fairer admission system that does not put any child at a disadvantage over another child because of where they live."*

### **Background**

6. The LA's determined arrangements for 2015/16 use the same oversubscription criteria as in recent years. The LA's 'Admission to Primary School' booklet includes the relevant arrangements and some additional information concerning catchment areas, largely to do with 'clusters' of linked primary and secondary schools. Applicants are, however, provided with clear details of how they may obtain advice about catchment areas by telephone and how they may view maps of individual schools' catchment areas online or in person at council premises. This booklet also provides helpful data concerning applications and places provided at schools in the two previous admission years, so that parents may have some idea of the likelihood of their being offered a place at a particular school. Nevertheless, the booklet is careful to warn that such data is not necessarily an accurate guide for patterns of applications and the allocation of places in future admission years.

7. The LA has used catchment areas as an oversubscription criterion for a long time, adjusting boundaries as it has felt necessary in the light of demographic change.

Five schools have been closed in the last ten years, and other schools' catchment areas adjusted accordingly. The catchment area of the school which first gave rise to this objection has not changed during that time.

### **Other matters**

8. In the course of considering the objection, I have also examined the arrangements as a whole and found that the tie breaker appears not to conform with the Code. The arrangements include as the tie breaker within any of the oversubscription criteria, "*Children living nearest to the school.*"

9. The LA's 'Admission to Primary School' booklet, in the context of providing parents with information concerning optional deferred entry for children who will start school prior to their fifth birthday, appears not to conform with the Code in respect of the availability of part-time education for such children.

### **Consideration of Factors**

10. In responding to this objection, I shall consider the LA's use of catchment areas both in general and in the specific context of Kells Lane Primary School. The objector was moved to contact the adjudicator because of circumstances relating to a personal experience concerning admissions to this one school, but broadened the objection to the unfairness of catchment areas in general as an oversubscription priority ranked above sibling links.

11. The LA's arrangements are determined on behalf of all community and voluntary controlled primary schools within its area and the designated catchment areas are identified as part of an overall pattern so that any changes in one would have a knock-on effect elsewhere.

12. Similarly, although the objector draws attention to six neighbouring LA's and contends that in none of those are catchment areas either used, or ranked above sibling links, in oversubscription criteria, that is not of relevance in considering this LA's arrangements in relation to the requirements of the Code.

13. Paragraph 1.8 of the Code states that "*Oversubscription criteria must be reasonable, clear, objective, [and] procedurally fair.....*". Specifically, with regard to catchment areas, paragraph 1.14 says that "*[they] must be designed so that they are reasonable and clearly defined.*" The common factor here is 'reasonableness', and this is the aspect I shall consider, since the clarity and objectivity of the defined areas, and the procedural fairness in applying this oversubscription criterion, are not at issue.

14. The LA justifies the use of catchment areas as "*a planning tool to provide places for local children*". It says that they "*follow natural boundaries such as major roads*" and that they "*[take] into account the number of homes within those boundaries in question*". It further states that "*They are reviewed if a new school is built or a new housing development is likely to result in an increased number of school places being required.*" As mentioned above, the closure of five schools during the last ten years has also resulted in some redefinition of catchment area boundaries.

15. The objector contends that it “*does not seem logical, well thought out or fair*” to draw a catchment area boundary so that houses on one side of a road are ‘in’ and houses on the other side of the road are ‘out’. Although this complaint relates to the specific school previously mentioned, and hence an aspect of the objection that I will not consider in isolation, it nevertheless draws attention to an important general point. If catchment areas are used by a LA, then – to state the obvious – lines must be drawn somewhere. Those lines, as the LA points out, may be suggested in part by natural boundaries, including major roads, as well as the density of housing around individual schools. In looking closely at maps of the LA area alongside catchment area maps for individual schools, it seems to me that, despite the inevitable compromises that will sometimes be necessary, the LA has attempted to be both “*reasonable*” and “*fair*” in setting boundaries that minimise, for example, the need for large numbers of children to cross major roads in order to reach a school. This may occasionally result in individual disappointment, but across the LA every child is within the clearly defined catchment area of a named school and so has priority for a school place.

16. In this respect, therefore, I find that the LA’s arrangements conform with paragraphs 1.8 and 1.14 of the Code.

17. The second consideration within the objection is whether the LA’s arrangements contravene the Code in any way by giving catchment areas priority over sibling links. The Code, in paragraph 1.11, permits the naming of siblings as an oversubscription criterion but does not specify in detail how this should, or should not, be operated. Again, therefore, it is a question of whether the LA’s arrangements are “*reasonable*” and “*fair*” in this respect. In fact, children who live in a school’s catchment area **and** have a sibling in the school are given the highest priority in the oversubscription criteria, after looked after and previously looked after children. It is children who have a sibling at the school, but who live outside the catchment area, who have lower priority. If the legitimacy of catchment areas is accepted, as I have argued above, then this ranking seems, to quote again paragraph 1.8 of the Code, “*reasonable, clear [and] objective.*” It is true that this ranking might lead to inconvenience for some families where changes in patterns of application mean that an older child gained a place at a school despite living outside the catchment area, while a younger sibling was unable to gain a place at a later date, but this not contrary to any requirement of the Code.

18. In responding to this aspect of the objection, the LA carried out an exercise in respect of one school to ascertain the effect in the most recent admission round of changing the rank order of the oversubscription priorities to give preference to all siblings, irrespective of where they lived. The outcome for this one school would have been that five current catchment children would have been refused places, while three siblings not within the current catchment area would have been offered places. It would seem clear from this, however limited an exercise, that there would be ‘winners’ and ‘losers’ whatever the ranking order of priorities adopted within the arrangements.

19. I have considered this point and am persuaded that the LA’s ranking of oversubscription criteria is reasonable and fair and that it does not in any way

contravene the Code, however much the objector feels it to be personally disadvantageous. Even when the Code's requirements of reasonableness, clearness and objectivity are met, some individual disappointments are inevitable.

### Other matters

20. I have considered the LA's tie breaker arrangements. The determined arrangements state that if there are more applicants than places within any of the oversubscription criteria, *"priority will be given to those children based on the distance they live from the school, measured 'as the crow flies' i.e. in a straight line from the centre of the home residence to the school's main entrance."* While this statement, and the explanation of the measuring system used, complies with the requirements of paragraph 1.13 of the Code, it does not comply with paragraph 1.8 which states that arrangements *"must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated."* A way of separating such applicants, for example where two or more live at the same address, or at residences that are the same measured distance from the school, needs to be included as a final tie-breaker.

21. I have also considered the information provided for applicants concerning the admission of children below compulsory school age and deferred entry to school. The determined arrangements state that, unless deferred entry is sought and granted following consideration *"by us the local authority (LA) in consultation with the Head Teacher and governors of the school"*, there will be an induction period *"in many schools"* that *"may last from September until no later than the end of October half term holiday."* There is no mention here of the possibility of part-time schooling, although in the booklet 'Admission to Primary School', applicants are told, *"You may also request that your child attends school on a part time basis until they reach five years old, however such requests will only be considered if exceptional circumstances apply."* There is no indication of the grounds on which such parental requests might be granted.

22. The statements quoted above are unhelpful – and unwelcoming – to parents. Moreover, they are in obvious contravention of paragraph 2.16 of the Code, which states unequivocally that *"The authority must make it clear in their arrangements that: a) parents can request that the date their child is admitted to school is deferred until later in the academic year or until the term in which the child reaches compulsory school age, and b) parents can request that their child takes up the place part-time until the child reaches compulsory school age."* There is nothing here to suggest that a committee of LA officers, head teacher and governors should put obstacles in the way of deferred entry, which is, in my view, what many applicants would feel on reading the LA's statement quoted above. As a result, some might be discouraged from making the request. Neither is there anything in the Code to support the LA's contention that part-time schooling for children below compulsory school age should be allowed only in *"exceptional circumstances."* The *'induction period'* mentioned is both indeterminate (*"may ... no later than ..."*) and an attempt to impose a pattern on parents to whom the Code gives a choice. What the Code states as an entitlement for parents regarding the school starting arrangements for children below compulsory school age is here made to appear as a favour that may or may not be granted by the LA. Children have an entitlement to

attend school full time from the first day of the autumn term. These aspects of the arrangements are contrary to both the letter and the spirit of the Code and need to be amended accordingly.

## **Conclusion**

23. I have considered the objector's arguments concerning the identification and application of catchment areas as an oversubscription criterion in the LA's arrangements. The Code requires criteria in general to be "*reasonable, clear, objective [and] procedurally fair*" and that catchment areas should be "*reasonable and clearly defined.*" In my view, the LA has met those requirements of paragraphs 1.8 and 1.14 of the Code in its arrangements. I also accept that the priority given to siblings, relative to residence within or outside catchment areas, does not contravene any requirement in the Code.

24. However, the arrangements do not provide a final tie-breaker that would prioritise applicants who might still be ranked equally according to the oversubscription criteria as determined even after applying distance as a tie-breaker.

25. Furthermore, information for applicants regarding deferred entry and part-time schooling for children admitted below compulsory school age is off-putting in tone and does not comply with paragraph 2.16 of the Code.

## **Determination**

26. 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 Gateshead Metropolitan Borough Council for admissions to community and voluntary controlled schools in September 2015.

27. I have also considered the arrangements in accordance with section 88I(5). I determine that there are matters as set out in this determination that do not conform with the requirements relating to admission arrangements.

28. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admission Code requires the admission authority to revise its admission arrangements as quickly as possible.

Dated: 3 July 2014

Signed:

Schools Adjudicator: Andrew Bennett