



DETERMINATION

Case reference:	ADA2869
Objector:	a parent
Admission Authority:	North Somerset Council for rural community and voluntary controlled schools
Date of decision:	30 September 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by North Somerset Council for rural community and voluntary controlled primary schools in the local authority area of North Somerset Council.

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 by 28 February 2016.

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 rural community and voluntary controlled primary schools for September 2016 (the arrangements) determined by North Somerset Council (the local authority).
2. The objection is that:
 - a. the arrangements have catchment areas which are not clearly defined;
 - b. the oversubscription criteria are procedurally unfair; and
 - c. the oversubscription policy is unclear.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority which is the admission authority for the community and voluntary controlled schools in its area. The objector submitted his objection to these determined arrangements on 15 May 2015. 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.

4. The objector also objected to the arrangements for 2015 which are substantially the same as those for 2016. Objections to the arrangements for 2015 had to have been made by 30 June 2014. My determination is limited to the arrangements for 2016.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 15 May 2015 and further correspondence from the objector including a Voronoi diagram;
 - b. the local authority's response to the objection, supporting documents and further information responding to my enquiries;
 - c. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2016;
 - d. maps of the area identifying relevant schools; first preferences for places at Winford Church of England (C of E) School for 2015 by home addresses; and allocated places by home addresses for this school for 2015;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. confirmation that the local authority determined the arrangements; and
 - g. a copy of the determined arrangements.
7. I have also taken account of information received during a meeting I convened on 9 July 2015 with representatives of the local authority and the objector (the meeting).

The Objection

8. The objector believes that:
 - a. The oversubscription criteria do not conform with paragraph 1.14 of the Code because by giving priority for places to people based on the nearest school to the child's home, they have created catchment areas which are not defined.
 - b. The oversubscription criteria are contrary to paragraph 1.8 of the Code as arbitrary catchment areas are created by using the nearest school criterion to allocate places which include schools which operate different criteria which is procedurally unfair.
 - c. The oversubscription policy is unclear as it says, "*An appropriate school is defined as a maintained mainstream school (excluding Catholic schools).*" This gives the impression that academies are excluded and this is not the case.

Background

9. North Somerset Council is the admission authority for the community and voluntary controlled schools within its boundaries. At the meeting it was explained to me that the principle of *'local schools for local*

children' drove policy. There are differing arrangements for rural and non-rural schools. This determination is limited to the arrangements for rural community and voluntary controlled schools.

10. North Somerset Council is a unitary authority which borders the local government areas of Bath and North East Somerset Council, Somerset County Council, Bristol City Council and South Gloucestershire Council. There are 61 primary schools and ten secondary schools in the local authority area. The guide for parents of children starting primary school in September 2016 names 16 non-rural and 16 rural community and voluntarily controlled schools for which the local authority is the admission authority and which provide education for primary aged children.
11. The objector uses a particular location, Regil, to provide evidence for the objection. Regil is part of a narrow tongue of land which extrudes from the North Somerset Council area and is bordered on three sides by the local authority area of Bath and North East Somerset. The nearest school in the local authority area is Winford C of E School which is a voluntarily controlled school. However, the nearest school to Regil in a straight line is Chew Stoke Church School in the village of Chew Stoke which is in the local authority area of Bath and North East Somerset Council. Chew Stoke Church School is an academy and as its own admission authority determines its own admission arrangements. Its arrangements include oversubscription criteria using a catchment area defined by the parish boundary which does not include Regil but curves around it on three sides.
12. The local authority's arrangements for its rural community and voluntary controlled schools, which are individually named in the arrangements and include Winford C of E School, have the following oversubscription criteria:

"B i Children in Care at the time of application and children who were previously in Care but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order) immediately following having been in Care.

B ii Children with a brother or sister who was attending the school prior to September 2008 and either he/she or any younger brother or sister will be attending the school at the time of admission.

B iii Children with a brother or sister who started attending the school after or during September 2008 and he/she will be attending the school at the time of admission, where it is the nearest school to the home address.

B iv Children, where it is the child's nearest school to the home address.

B v Children, where it is not the child's nearest school to the home address, with a brother or sister who will be attending the school at the

time of admission.

B vi Children living closest to the school.”

13. The local authority explained that the reference to 2008 in Bii of the oversubscription criteria stems from the introduction of these particular admission arrangements and was designed not to disadvantage any sibling of a child for whom parents had secured a place under previous arrangements. I understand there have been no places allocated under Bii for September 2014 or September 2015. Biii and Biv are based on the principle of ‘*nearest school*’ which is therefore the most commonly used part of the oversubscription criteria.

Consideration of Factors

14. The first part of the objection is that the use of ‘*nearest school*’ creates catchment areas which are not clearly defined. This would not conform with paragraph 1.14 for the Code which says, “*Catchment areas **must** be designed so that they are reasonable and clearly defined.*” The local authority does not consider that it uses catchment areas in this context and so does not define them. The arrangements are presented on the local authority’s website in a range of documents. One is labelled, appendix 1 of a post consultation paper called “*New Intake School Admission Arrangements and Oversubscription Criteria for North Somerset Community and Voluntary Controlled Schools – 2016-17 School Year.*” Item 14 of this paper says, “*Unless stated otherwise all distances are measured in a direct line. Direct line: is where distances are measured in a straight line between the address point of the child’s home and the main entrance marker for the school, indicated on North Somerset Council computerised system(s). Unless stated otherwise where the direct line distances are equal, the ranking of applications will be determined by drawing lots.*”
15. Item 21 of the same paper says,
“Nearest School:
Unless stated otherwise;
i) the distances used to determine the nearest school will be measured in a direct line. If direct line distances are equal the nearest school will be determined by drawing lots.
ii) the nearest school is the nearest appropriate one. An appropriate school is defined as a maintained mainstream school (excluding Catholic schools) that is appropriate to the child’s age on joining the school. * i.e. not private or fee charging.*”
16. The objector provided a Voronoi diagram which shows the primary schools in the local authority area and the areas which are the nearest to them in a straight line. The purpose was to illustrate that every home has a ‘*nearest school*’ and this has the effect of creating catchment areas. The objection is that there is no map or clear description in the arrangements which define these areas beyond the definitions in the paragraphs above.

17. However, because the arrangements are only for the schools for which North Somerset Council is the admission authority, these are not catchment areas because they cannot take into account the admission arrangements of other admission authorities. The local authority has therefore not created catchment areas and so it does not have to define them. I do not uphold this part of the objection.
18. The second part of the objection is that arbitrary catchment areas have been created by using the nearest school criterion to allocate places which, as schools are included which use different arrangements, is procedurally unfair which is not permitted by paragraph 1.8 of the Code.
19. The local authority, as established above, does not use catchment areas in its arrangements and so therefore arbitrary catchment areas have not been created. I do not uphold the objection on these grounds.
20. At the meeting the local authority told me that '*nearest school*', includes all schools whether own admission schools or community and voluntary controlled school of other local authorities so, not just its own rural community and voluntary controlled schools. The local authority does not determine the arrangements of voluntary aided, foundation or academy schools, but its arrangements are based on treating the schools of other admission authorities as potentially '*nearest schools*.' This affects the priority a child might have for a rural community and voluntary controlled school for which North Somerset Council is the admission authority. The local authority's community and voluntary controlled schools all have the same arrangements, but the own admission authority schools are likely to have arrangements that differ from the local authority's and from each other.
21. I use the situation of a child living in Regil to illustrate the potential effect when the oversubscription criteria have to be applied.
 - a. Chew Stoke Church School, the nearest school to Regil in a direct line but in another local authority area and an own admissions authority, is 2.1 miles by road from Regil. The child living at Regil could be refused a place by Chew Stoke Church School as the child is not sufficiently high in the oversubscription criteria because they do not live in the parish. These school's arrangements do not take into account that it is the nearest school to a child living in Regil.
 - b. Winford C of E Primary, the next nearest school to Regil in a direct line, is 1.62 miles by road from Regil and is a rural voluntary controlled school whose admission arrangements are determined by North Somerset Council. The child could be refused a place at Winford C of E School as they are not sufficiently high in the oversubscription criteria determined by North Somerset Council as Chew Stoke Church School, in Bath and North Somerset Council's local authority area, is the child's

nearest school in a direct line.

22. If the allocation of a place for a child in this particular area depends on meeting criterion Biv then the nearest school by direct line is an own admission authority school that gives priority to applicants living in its parish. The outcome for a child may then be that the nearest community or voluntary controlled school at which a place can be allocated is a significant distance away within the local authority's area. It is not reasonable to include as '*nearest school*' all schools that are their own admission authority, or are located in a different local authority unless the admission arrangements of such a school make it a realistic option to include that school.
23. A further concern is that the local authority uses a direct line to define the '*nearest school*'. The use of direct lines in a rural area to measure distance is clear cut and administratively simple; there is no debate about routes so decisions are straight-forward. In practice, however, there may in some areas be significant natural barriers, such as rivers, lakes or tracts of land without roads. The local authority area has several such natural barriers. While it may be reasonable to use direct line for much of the rural area, taken together with the nearest school criterion it may not be reasonable to use a direct line to measure the distance from a home to decide which the nearest school in all parts of the area. The arrangements at item 14 say, "*Unless stated otherwise all distances are measured in a direct line.*" This seems to imply that there may be circumstances when a different way of measuring distance is used.
24. Obviously oversubscription criteria are only applied when there are more applications for a school than there are places and some children will not be allocated places at their preferred school; there will always be someone disappointed as a result. The situation created by the arrangements, which are based on treating every school as if it could be the '*nearest school*' irrespective of the reality of that school's admission arrangements, and to define '*nearest school*' in a direct line irrespective of travelling routes in a rural area or of barriers such as lakes, is not reasonable or procedurally fair as applied to all rural community and voluntary controlled schools without consideration of the actual context. I uphold this part of the objection on these grounds.
25. The third part of the objection is that the local authority was unclear in its definition of maintained schools. This was because it appeared that academies were excluded from the definition of an appropriate nearest school when this was not the case and so the local authority did not meet the requirement of the Code to be clear.
26. As described above, the admission arrangements define '*nearest school*,' as "*An appropriate school is defined as a maintained* mainstream school (excluding Catholic schools) that is appropriate to the child's age on joining the school. * i.e. not private or fee charging.*"

27. Section 20(1) of the Act defines a '*maintained school*' as one maintained by the local authority and includes community schools; foundation schools; and voluntary schools (comprising voluntary aided and voluntary controlled schools) and does not include academy or free schools. The definition in the arrangements is accurate in that it excludes schools for which parents pay fees, but is inaccurate in so far as academy schools are not maintained schools, they are state-funded independent schools, but they are included as "*nearest school*." The arrangements are not clear and therefore do not meet the requirements of paragraph 14 and 1.8 of the Code to be clear. I uphold this part of the objection.

Conclusion

28. The local authority has not used catchment areas within its arrangements and so does not need to define them. However, the use of '*nearest school*,' does not take into account the context of other admission authorities and this is not fair or reasonable. In addition '*nearest school*' is based on straight lines in a rural area and this is not always reasonable. The definition of '*an appropriate school*' is incorrect making the arrangements misleading and unclear.

29. Paragraph 3.1 of the Code permits a timetable to be specified by the adjudicator for the arrangements to be revised. I have taken into consideration the need for clarification that could be done quickly and consultation on other matters before a decision could be taken. I therefore specify that the admission authority must revise its admission arrangements with respect to its definition of nearest school and should consider its use of distance measured in a direct line by 28 February 2016.

Determination

30. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by North Somerset Council for rural community and voluntary controlled primary schools in the local authority area of North Somerset Council.

31. 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 by 28 February 2016.

Dated: 30 September 2015

Signed:

Schools Adjudicator: Deborah Pritchard