



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA2909</b>
<b>Referrer:</b>	<b>A member of the public</b>
<b>Admission Authority:</b>	<b>Essex County Council for community and voluntary controlled primary schools</b>
<b>Date of decision:</b>	<b>5 August 2015</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Essex County Council for the community and voluntary controlled primary schools within the local authority for admissions in September 2016. The local authority has already amended its arrangements in response to the objection.**

### **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 member of the public (the objector), about the admission arrangements (the arrangements) determined by Essex County Council, the local authority (the LA), for September 2016 for community and voluntary controlled schools. The objection is that the point in the school from which all distances are measured has not been defined; and that the arrangements do not comply with the requirement to make provision for circumstances where parents have shared responsibility for a child as set out in paragraph 1.13 of the School Admissions Code (the Code).

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the LA, which is the admission authority for community and voluntary controlled schools. The objector submitted the objection to these determined arrangements on 19 June 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.

3. In this case the referral has been made by a parent who wishes to remain anonymous. The party has met the condition of paragraph 24 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012. This 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 adjudicator.

## **Procedure**

4. In considering these matters I have had regard to all relevant legislation and the Code.

5. The documents I have considered in reaching my decision include:

- the objection dated 19 June 2015, and further comments;
- the LA's response dated 6 July 2015, with supporting documents and further responses of 13 and 21 July 2015;
- the LA's composite prospectus, "*Primary Education In Essex 2015/16*";
- a copy of the report which records the decision made by the Cabinet Member for Education and Lifelong Learning on 23 February 2015 to determine the arrangements for community and voluntary controlled schools for 2016/17; and
- a copy of the LA's determined arrangements for 2016.

## **The objection**

6. The objection refers to two issues, first that the point in the school from which all distances are measured has not been defined in the distance tie breaker; and secondly that the LA's arrangements do not make provision for instances when parents have shared responsibility for a child. These omissions are said to contravene paragraph 1.13 of the Code, which says, "*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 and the point in the school from which all distances are measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*"

## **Consideration of factors**

7. The objector contends that the arrangements are not compliant with the requirements of the Code because they do not state the '*point in the school*' from which all distances are measured. The distance tie breaker is defined in the arrangements as follows, "*All straight line distances are calculated electronically by the LA using data provided jointly by the Post Office and Ordnance Survey. The data plots the co-ordinates of each property and provides the address-point between which straight line distance is measured and reported to three decimal places. In the unlikely event of two applicants with an identical distance competing for a single place at a school*

*the place will be offered to one applicant on the basis of lots drawn by an officer of the County Council not involved in admissions.”*

8. While considering the objection the LA has noted an inconsistency between this definition in the arrangements which the objector has referred to, that makes no mention of ‘the school’; and the definition that is provided in the composite prospectus, which elaborates further and does mention ‘the school’. In its response the LA says, “...*The data is used to plot the co-ordinates of each individual property and school and provides the address points between which the straight line distance is measured. Distances are reported in miles to three decimal places in the first instance.*” The LA added that whenever a parent requests the numerical co-ordinates of a particular address point, as part of an application or appeal this has been provided, “*When taking the definition from the composite prospectus (which is essentially what the determined arrangements state, albeit it does need to be clarified..... , it is clear that the ‘point in the school’ is defined – that being the ‘address point’ for the school as determined via the Post Office and Ordnance Survey process*”

9. The LA has acted immediately to change the text of the arrangements so that they reflect the text in the composite prospectus. “*Accordingly, and accepting the determination document needs to amended to make it wholly consistent with what the Local Authority publishes in the composite prospectus in this respect (and what it always has and intends to continue to do so), the Council does not accept that there is any material non-compliance with the provision of the Code in this respect. The ‘point in the school’ is defined as the ‘address point’.*”

10. However, in the objector’s view the distance tie-breaker is not easy for parents to understand and the LA says it is helpful to have this feedback and it has made additional changes. The distance tie-break now states, “*For admissions purposes the LA uses data provided by Ordnance Survey (OS) to measure straight line distances. The OS data plots the co-ordinates of each individual property (the home address) which are referred to as address points. The definition of the home address is as described above. Straight line distance is measured from the address point of the home address to address point of the school. Distances are reported in miles to three decimal places. If a child’s time is split equally between two residences, the address of the residence at which the child resides for the majority of the school week would be used to measure the distance between the child’s school and home. In the unlikely event of two applicants with an identical distance competing for a single place at a school the place will be offered to one applicant on the basis of lots drawn by an officer of the County Council not involved in admissions, with the exception of twins, triplets etc.*”

11. The LA has now changed the arrangements, as is permitted to make them comply with the Code, to provide a more accurate reflection of its practice and one that makes it easier for parents to understand how distance is measured. The fact remains that the arrangements, as determined, made no mention of a point in the school from which home to school distance is measured. This breaches the requirement set out in paragraph 1.13

paragraph the Code, “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 and the point in the school from which all distances are measured.....” and for this reason I uphold this aspect of the objection, but no further action is needed as the arrangements have been amended.

12. In the second point the objector contends that the arrangements do not make provision for a situation where parents have shared responsibility for a child despite the Code saying admission authorities should include such a provision. There is a detailed paragraph in the arrangements about the definition and treatment of ‘home address’ which covers situations where a child is ordinarily resident with another relative or carer, “...such as a *grandparent*.” It also covers childcare arrangements where a child is delivered to and collected by parents from a childminder or relative. It does not cover circumstances where parents themselves have shared responsibility for a child.

13. In a further response the LA says that it considers that the text in the arrangements provides, “a reasonable and proportionate approach since it is necessary, under co-ordination, to process a single application for each child and establish an address to be used to apply the admission criteria in respect of that application. The Council recognises that there are cases where children may live between two parents during the week but for the purposes of the fair and practical administration of co-ordinated admissions (and the principle of making a single offer for each child) one address has to be used so as not to confer an unfair advantage in such cases, when compared to other applicants (which constitute the overwhelming majority).” It says there has never been a dispute about this issue before but having reflected on the objection it acknowledges that the wording can be made clearer and more explicit. It will publish the revisions on its website and in the composite prospectus for 2016-17 admissions. The section ‘Home Address’ has been edited and I have highlighted the changes in bold below:

*“Applications will normally be processed on the basis of the home address for the child at the time of application and determination, unless, where there is a new home address, proof of an exchange of contracts or copy of a tenancy agreement can be provided by 5 February 2016. The home address is considered to be the address at which the child resides on a permanent basis or is ‘ordinarily resident’. This is generally the address of the parent/carer. **This may also be the case where a child resides between two parents at different addresses following the breakdown of the parental relationship.** Where this is the case, the application may be processed on the basis of that address (**where the child resides for the majority of the school week**) and proof of address and residence arrangement will be required with the application. The child must be living with the **parent**, relative or carer 24 hours per day, for the majority of the school week. Arrangements where parents can leave and collect children from another relative or carer on a daily basis will be regarded as childcare arrangements, and the child will not be deemed to be ‘ordinarily resident’*”

*with that person. In all cases we expect that the adult with whom the child is 'ordinarily resident' receives the child benefit for the child (where eligible)."*

14. Paragraph 1.13 paragraph the Code cited above requires admission authorities to set out clearly how home to school distance is measures. It continues, ".....*This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*" The arrangements as determined did not include the relevant information, but have since been amended to take account of such a situation.

### **Conclusion**

15. Having considered the objection I have concluded that the arrangements did not meet the mandatory requirement set out in paragraph 1.13 of the Code in respect to a clear definition of how home to school distance will be measured. Neither did the arrangements set out the provision for cases when parents have shared responsibility for a child. I therefore uphold the objection and acknowledge that the LA has responded swiftly and positively to the points made by the objector.

### **Determination**

16. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Essex County Council for the community and voluntary controlled primary schools within the local authority for admissions in September 2016. The local authority has already amended it arrangements in response to the objection.

Date: 5 August 2015

Signed:

Schools Adjudicator: Carol Parsons