

OFFICE OF THE SCHOOLS ADJUDICATOR – UPDATE ON DETERMINATIONS IN RESPECT OF ADMISSIONS FOR 2005-2006

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1. Purpose of the Report

To update the Admissions Forum on recent determinations by the Office of the Schools Adjudicator in respect of admission arrangements.

2. Summary

On the website of the Schools Adjudicator (www.schoolsadjudicator.gov.uk) at the start of September there was information relating to the 171 objections against admission arrangements in respect of which there has been a determination between May 2004 and April 2005. These objections related to proposed admission arrangements for 2005-2006.

The attached appendices are provided for the information of and consideration by members of the Forum.

Appendix 1 sets out an analysis of objections to published admission arrangements categorised by LEA area.

Appendix 2 sets out objections to published admission arrangements categorised by the nature of the objection.

Appendix 3 contains extracts from a number of representative determinations by Adjudicators.

Clearly, many of the issues that have been considered by the Hertfordshire Admissions Forum are being raised elsewhere.

3. Conclusion

The Forum is asked to note the report and to consider what lessons may be learned from adjudications nationally and how these may be applied in the Hertfordshire context.

Particularly relevant are the determinations of the Adjudicator in respect of criteria, which do not give sufficient priority to Looked after Children, and criteria which give greater priority to children of staff and to siblings. These are further considered in item 7 of this agenda.

**OBJECTIONS TO PUBLISHED ADMISSION ARRANGEMENTS
MAY 2004 – APRIL 2005: OBJECTIONS BY LEA AREA**

LEA	Upheld	Partially Upheld	Modified Upheld	Not Upheld	Total
BANES	1				2
Bedfordshire	13			1	14
Bradford	1			1	2
Bromley		1			1
Bucks	5			1	6
Calderdale				12	12
Cheshire	1				1
Derbyshire	4			3	7
Dudley	1				1
East Riding	1				1
Essex	17	2			19
Greenwich				1	1
H'smith & Fulham		1			1
Hampshire	5	1		1	7
Hertfordshire				3	3
Kent	3				3
Leeds	1			1	1
Lewisham	1			1	2
Luton	6	11		2	19
Milton Keynes	1				1
NE Lincolnshire	1				1
Northants	6				6
Nottingham	7			2	9
Nottinghamshire				1	1
Oxfordshire	1				1
Peterborough	18	1	3	5	27
Sheffield		1			1
Swindon	1				1
Thurrock	1				1
Wandsworth		2		4	6
Warwickshire	4				4
Wigan	7				7
Worcestershire	2				2
Totals	110	20	3	38	171

Of the 171 objections, 14 were against LEA arrangements (8 not upheld) and 157 were against arrangements determined by governing bodies of schools (30 not upheld).

APPENDIX 2

OBJECTIONS TO PUBLISHED ADMISSION ARRANGEMENTS MAY 2004 – APRIL 2005

OBJECTIONS BY CATEGORY

Objection	Upheld	Partially Upheld	Modified Upheld	Not Upheld	Total
OSC C.I.P.C.	40	3	1	1	45
OSC C.M.O.S.	16	1		4	21
OSC SIB P&P	5	4	1		10
OSC Child at Nursery	1				1
OSC Medical / Social	1				1
OSC Catchment	5				5
OSC Distance		1		3	4
OSC Feeder Schools	1	1			2
OSC Tie Breaker	4	2			6
OSC Religious		1			1
OSC Misc/Undefined	6	2		16	24
Prefs-EP vs. FPF	4	1		1	7
Timing of selection tests	1		1		2
Partial selection	5	2		8	15
Banding				1	1
Admission Number	4	2			6
PAN < NC	1				1
Increased PAN	4				4
Decreased PAN	2				2
Consultation	2	1			3
Waiting Lists	1				1
Interviews-Not Religious Grounds		1			1
SEN	2	1		1	4
Reserved Places	1				1
Point of entry	1			1	2
Arrangements Unclear	2				2
TOTAL	110	20	3	38	171

OSC = Over subscription criteria
 CIPC = Children in public care
 CMOS = Children of members of staff
 SIB P&P = Siblings past and present
 PAN = Published Admission Number
 NC = Net Capacity

CITY OF NOTTINGHAM

CATHOLIC VA PRIMARY AND NURSERY

Looked after Children, Children with SEN, Late Applications

Consideration of Factors and Conclusion

1. I have studied the papers provided by the LEA which include copies of correspondence with the Department for Education and Skills (DfES). I have also seen minutes of meetings of the Admissions Forum. Among the factors I have considered are the levels of oversubscription at the school in question and the projected pupil numbers in the area.
2. The first part of the objection relates to the place of children in the care of a local authority and children who have special educational needs. The admission arrangements do not mention either of these groups of children. The Code in paragraphs 3.14 and 3.15 makes clear the top priority that should be accorded children in public care (looked after children) and the attention that should be given to arranging a suitable care placement which includes arrangement of suitable education. I uphold the objection and determine that children in the care of a local authority will be the first criterion for admission.
3. The admission of children who have a statement of special educational needs is covered by Sections 324 to 328 of, and Schedule 27 to, the Education Act 1996. It is not appropriate to include pupils who have a special educational need as an oversubscription criterion, but there should be a reference in the admission arrangements which states plainly that the school follows legal requirements concerning the admission of such children. Parents must know how their child will be treated in relation to admission to the school. I uphold the objection and have provided text to be included in the arrangements.
4. The second part of the objection is about a lack of clarity in the arrangements. The arrangements for 2005 include the statement that 20 applications were refused admission into 2004/05 which means that it is very important indeed for the admission arrangements and oversubscription criteria to contain all the relevant information and be very clear for parents. The objection is that the school has not made any reference in its arrangements to how late applications will be dealt with; has not indicated whether or not a waiting list will be maintained for unsuccessful applicants and if so, for how long; and has not made clear that there are separate arrangements for the nursery and that admission to the nursery does not guarantee admission to the school for primary education.
5. The Code is explicit about the information that should be included in admission arrangements and the procedures that should be in place to deal with particular circumstances. It says “..arrangements should work for the benefit of all parents and children in an area. The arrangements should be as simple as possible for parents to use, and help them to take the best possible decisions about the preferred school for their children.” The Code gives

examples of good practice and has a whole chapter on “Applying Admission Arrangements.” The school should include information about the way it will handle late applications, and whether it keeps a waiting list, and if so how it is administered. The Code, paragraph 3.17 says that a school’s published admission arrangements should make clear to parents that there are separate admission arrangements for the nursery and reception class and that attendance in the nursery class does not guarantee admission to the school for primary education. I uphold the objection in relation to the lack of clarity in the arrangements and have provided text to be included in the arrangements.

BEDFORDSHIRE

FOUNDATION PRIMARY SCHOOL

Looked after Children, Family Connections

Conclusions

1. The aim of the recommendation in the Code is clearly to ensure that looked after children are quickly placed in a school to meet their needs (paragraph 3.14). It is for those responsible for the child – as for other parents or guardians – to decide whether a particular school ethos is likely to meet the child’s needs.
2. There is no provision in the current trust deed which prevents the governors from giving top priority to looked after children.
3. In the hypothetical situation whereby giving top priority to looked after children led to the school being full of such children, none of whom came from Houghton Regis it might be argued that the spirit of the original foundation might be breached. But the number of looked after pupils likely to seek admission to the school is very small, which suggests that giving top priority to such pupils is not likely to fundamentally change the pattern of admissions. Nor is the school being asked to adopt a policy which is different from that of other schools in the area. The 1859 scheme provided for those whose parents objected to religious instruction according to the rites of the Church of England to be given secular instruction as an alternative, which suggests that historically admissions were not limited to those from Church of England families.
4. Criterion 6 is for children whose parents have no religious affiliation but who are able to satisfy the governors that they wish to educate their child within the ethos of a Church of England School and that they fully support this ethos. Note 4 explains one way (evidence of former family connections) in which the governors would be satisfied that this criterion has been met. But there is no explanation of any other ways in which the governors would be satisfied. This criterion is therefore not clear.
5. There are likely to be children whose parents want them to have an education in the school and are prepared and able to support the ethos of the school, but who do not have any of the family connections described. It is unfair to

those children to use family connections, particularly where there is no straightforward alternative way of satisfying the governors.

6. There is no evidence that the governors have considered paragraph 3.12 of the Code in relation to this criterion.
7. I have considered whether I should modify the arrangements to substitute alternative ways of assessing the understanding of parents of what it means to support a child who is being educated in a Church of England School. In my experience the ethos of Church of England Schools can vary substantially. What matters is that parents should understand the ethos of this particular school, and that they should do so before stating their school preference. In fact all parents should understand its ethos before they state their preference. The most obvious way of doing this is through the information given to parents by the governors before they make their decisions. The criterion appears largely superfluous, but I have concluded that it should not be deleted but simply modified to refer to parents who have no religious affiliation but wish their children to be educated within the ethos of a Church of England School, without any provision for the governors to test the commitment of the parents. The evidence of recent years suggests that this will not in practice give the governors any difficulty for admissions in 2005.
8. I have concluded that I do not have jurisdiction to consider criterion 7 which gives priority to children with at least one parent employed at the school at the expected time of admission, since there has been no objection to it. The governors should reconsider this for future years in the light of the Code, both in terms of the general principle that admission arrangements should be fair,for the benefit of all children (paragraph 2.3), and in terms of paragraph 3.12 which deals with possible discrimination as well as fairness. Such family connections can generally only be justified if there is clear evidence that there is a need to give priority to the children of staff to assist retention and recruitment of staff where there has been high turnover or other staffing difficulty. It is not in general fair to children with no family connections to give priority to those who have.

ESSEX

FOUNDATION SECONDARY SCHOOL

Aptitude Testing, Sixth Form Admissions

Conclusion

1. It seems that the College may not have fully appreciated that there is no provision for creating a discrete admissions policy for their technology places, and have therefore not been entirely clear about the respective numbers in their planned admissions number (which should include the technology places) and the technology places. Having considered information from the governing body and the LEA, I intend to revise the statement of the planned admissions number to state clearly a total number of 260 Year 7 pupils, including a maximum of 26 pupils admitted on the basis of aptitude in technology.

2. I will provide for the same proximity tie-break mechanism to apply to the technology places criterion as applies to the other criteria. I will provide for unallocated technology places to revert to the main pool of places for general allocation.
3. I intend to amend the criterion relating to siblings, and add a definition, in keeping with the practice at other Essex schools.
4. I intend to amend the note about children with statements of educational needs that name the College, to remove the implication of discretion, and move it to a position after the series of oversubscription criteria.
5. The requirement in the sixth form admission criteria for a record indicative of 'an appropriate attitude and level of commitment', based on a reference', is unsatisfactory in terms of the Code, and I will be removing it. I advise the College, consequent upon this change, to consider whether a revision is needed to the note on the sixth form application form about the nature of the information that will be sought from the headteacher of candidates' present schools. I wish to suggest also that the College review the whole of their sixth form admissions documentation in the light of the expectations of the Code, prior to the consultation that will precede the 2006 admissions.

SWINDON COMMUNITY SECONDARY SCHOOL

Reduction in PAN

Consideration and Conclusion

1. I first considered whether the LEA had a good reason for deciding to reduce the admission number to 30. I concluded that it did. Next year the school will have 12 classroom bases and 12 classes. At the end of the year, one class will leave so there is only room for one class to be admitted. Regulations restrict classes of infant children to not more than 30. To allow for more than 30 to enter the school would create difficulties without adaptation or extension of the school. Since there are sufficient places for infant children in the area, the LEA is reluctant to spend money on building work. The school supports the LEA in restricting the entry. In these circumstances I have concluded that it is reasonable for the LEA to decide that it should aim to restrict the number entering the school to 30.
2. I then considered the case made by the parents. They sent their children to the school over the past three years. The admission booklets for those years make clear that first priority is given to children who live in the area designated for that school. The families lived in the designated area for Catherine Wayte when they chose a school for their children. The families know that the national Code of Practice on school admissions and the LEA give high priority to admitting siblings of children already at the school. If their younger children are not admitted to the school, they will be subjected to great inconvenience, expense and the education of their children might be affected. They have every reason to complain.

3. These matters could be resolved if the LEA were to change its admission arrangements for the school to give priority to siblings where the parents lived in the designated area for Catherine Wayte when their elder children were admitted and still live there. The LEA knows of six children in this position for 2005. These parents have a stronger case than other parents who voluntarily decided to move out of the area after they placed their first children at the school. All of these parents will be subject to inconvenience, expense and other difficulties if they have children at different schools but parents who decide to move house knowing what the consequence would be have a weaker case than those who were affected by a change beyond their own control.
4. I have, however, no powers to change the admission policy. This case was referred to me by parents under regulation 5 (1) (b) of the Education (Objections to Admission Arrangements) Regulations 1999 (as amended). Under that regulation, I may rule on the admission number but not on the oversubscription criteria. Hence I would only be able to respond to the objection in a way that reflects my conclusions by raising the admission number to admit all the children from the designated area and the six siblings who live outside the designated area (i.e. set an admission number of 46); or leave a lower admission number and hope the LEA will change its policy as set out in paragraph 11 above.
5. Before reaching a conclusion, I wrote to the LEA on 16th July 2004 to ask them how they would respond to three possible decisions:
 - a. To increase the admission number from 30 to 46 which would allow for the admission of all the children in the designated area and the 6 siblings living outside it.
 - b. To increase the admission number to 36 and ask the LEA to reconsider its priorities for admission so that children who live in the designated area when their elder siblings were admitted are given priority.
 - c. To leave the admission number at 30 and ask the LEA to reconsider its admission priorities as in (ii) above.
6. I made clear that, if I adopted options (ii) or (iii) above, I have no powers under the regulations that I am using to require the LEA to change its admission rules.
7. The LEA responded that they would find option (i) above very difficult to implement. Even if more classroom space was added, there would be pressures on central facilities such as the hall and toilets. They could implement option (ii) or (iii) only if the admission arrangements were changed through an in-year variation as a result of a major change in circumstances and this would have to be agreed by a schools adjudicator. Under option (ii), there may be one or two parents in the same position as the six they know about so it might be safer to move the number a little higher – though not beyond 40 which would create extreme difficulties for the school. They point out that option (iii) would involve disappointment for some of the parents of children who live in the new designated area. The parents of the 30 children who live in the designated area and who live closest to the school will already

expect a place in 2005.

8. In these circumstances, I have concluded that I should raise the admission number to 38 and ask the LEA to consider submitting a request for an in-year variation to give priority to siblings whose parents lived in the designated area of the school when their elder children were admitted. The LEA can cite this determination as the major change in circumstances that created the need for the variation.