NORTH YORKSHIRE COUNTY COUNCIL

YOUNG PEOPLE OVERVIEW & SCRUTINY COMMITTEE

20th June 2008

School Admission Appeals Code

Purpose of Report

1.   The purpose of this report is to ask Members to:

(a) note the information contained within this Report

Background

The new School Admission Appeals Code was laid before Parliament on 16 November 2007 and came into force on 17 January 2008. It applies to appeals against decisions on admission sent to parents from 1 March 2008 onwards (so will include the secondary admissions round for September 2008 entry).

The Code applies to all maintained schools, including Trust Schools and Academies. Local authorities, governing bodies, admission authorities, admission forums, the schools adjudicator, admission appeal panel members and clerks to appeal panels are required to act in accordance with the Code when discharging their functions in relation to school admission appeals.

North Yorkshire, like many other areas, has experienced a significant increase in the number of School Admission Appeals over the past year. Following the last meeting of the Committee it was agreed to request a briefing and presentation on the impact and effect of the new code of practice for North Yorkshire.

Attached at annex A is an extract taken from The School Admission Appeals Code for your information.

Recommendations

2.   The Committee is asked to:

(a) note the information within this report

Hugh Williamson
Head of Scrutiny & Corporate Performance

Report prepared by Stephanie Bratcher
Contact Details: Tel   01609 532049

6th June 2008

Attachments: Annex A

Introduction

The Statutory Basis for the School Admission Appeals Code

1. The School Admission Appeals Code (the Code) has been issued under section 84 of the School Standards and Framework Act 1998 ('SSFA 1998') as amended by section 40 of the Education and Inspections Act 2006. Section 84(2) of the SSFA 1998 allows the Code to impose requirements and include guidelines setting out aims and objectives in relation to the discharge of functions. Section 84(3) of the SSFA 1998 requires the bodies listed at paragraph 7 to act in accordance with any relevant provisions of the Code. The Code has been made following a consultation under section 85(2) of the SSFA 1998 and after being laid before Parliament for 40 days. This Code and the School Admissions Code are available at www.dcsf.gov.uk/sacode .

2. This Code comes in to force on 17 January 2008 and applies to appeals in respect of decisions on admission communicated on or after 1 March 2008. It should be read alongside the School Admissions Code and other guidance and law that affect admissions and admission appeals in England. The School Admission Appeals Code of Practice (2003) will continue to apply to appeals in respect of decisions on admission communicated before 1 March 2008.

3. The Code imposes mandatory requirements and refers to statutory requirements (i.e. those imposed by primary or secondary legislation) with which those bodies listed at paragraph 7 **must** comply. Where mandatory requirements are imposed by this Code (or by statutory provisions) it is stated that relevant bodies **'must'** comply with the particular requirement or provision. Where this Code prohibits practices, it is stated that the relevant body or bodies **'must not'** use this practice.

4. The Code also includes guidelines which the relevant bodies **should** follow unless they can demonstrate, if challenged, that they are justified in not doing so. Where guidelines refer to good practice, the Code will state that the relevant bodies **'should'** follow the particular guidelines. Where the guidelines refer to a practice normally regarded as poor practice, but where there may be exceptional circumstances when it may be justified, the Code will state that the practice **'should not'** be used.

5. The Code aims to build on good practice already employed by many admission authorities. As local circumstances vary greatly, the Code does not seek to give guidance on every possible situation.

6. This Code is primarily aimed at those responsible for making appeal arrangements and form panel members and the clerk to the panel. Admission authorities, who are responsible for establishing appeal hearings, are best placed to offer parents1 advice about local appeal arrangements.

7. The following bodies have a statutory duty to act in accordance with this Code:

a) **Admission authorities** are defined in section 88(1) of the SSFA 1998. For community and voluntary controlled schools the admission authority is usually the local authority, but it may be the governing body if the local authority has delegated responsibility for determining admission arrangements. Governing bodies are the admission authorities for foundation schools (including Trust schools), voluntary aided schools and Academies. Where admission authorities arrange for another person to organise and administer appeals on their behalf, this Code will apply to that person and they will be required to act in accordance with it in the same way as the admission authority. In instances where the Code refers to the 'admission authority', it should be taken as meaning the person organising appeals on its behalf where this is appropriate.

b) **Governing bodies and local authorities (when not admission authorities)**
c) **Admission Forums**
d) **Schools Adjudicators**
e) **Admission Appeal Panel Members**
f) **Clerk to the Appeal Panel**

8. The Code deals with two separate categories of admission appeals:

a) appeals by parents against a decision by an admission authority not to admit their child to a school; and

b) appeals by governing bodies of community or voluntary controlled schools against a decision by the local authority, as their admission authority, to admit to their school a child who has been permanently excluded from two or more schools.

9. The fundamental objectives of all admission appeals are to:

a) provide an independent, impartial and informal but structured forum for parents and the admission authority concerned, to present their respective cases and to be confident that they will be given a fair hearing;

b) ensure that appeal panels weigh up all the evidence presented to them carefully and objectively before reaching a final decision on the appeal;

c) operate within education and other relevant legislation, including the Human Rights Act 1998, the Sex Discrimination Act 1975, the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000), the Disability Discrimination Act 1995 (as amended by the Special Educational Needs and Disability Act 2001) and the Equality Act 2006. Appeal panels are also required to have regard to guidance in the Equality and Human Rights Commission's Code of Practice for Schools[3] when determining an appeal.

Appeal panels are carrying out a judicial function and **must** apply the principles of natural justice (see paragraph 2.26);

d) operate in accordance with the mandatory provisions of the Code, having regard to all relevant guidance in conducting appeal arrangements, including this Code and the School Admissions Code; and

e) provide a system which is clear, consistent and easy to understand by everyone involved, particularly by parents.

[1] "Parent" is defined in section 576(1) of the Education Act 1996 as including any person who is not the parent of a child but who has parental responsibility for him (as defined by the Children Act 1989) or who has care of him.

[2] Academies are independent, mixed ability schools with sponsors, and are established under section 482 of the Education Act 1996 (as substituted by section 65 of the Education Act 2002). The funding agreement between an Academy company and the Secretary of State requires the Academy's admissions policy and arrangements to be consistent with admissions law and the School Admissions and School Admission Appeals Codes.

[3] The Code of Practice was issued by the Disability Rights Commission, before it became part of the Equality and
Human Rights Commission on 1 October 2007, and can be found at
www.equalityhumanrights.com .