

DETERMINATION

Case reference: ADA/001399 - 1409

Objector: A group of parents

Admission Authority: North Yorkshire County Council

Date of decision: 29 September 2008

Determination

In accordance with section 90 (3) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by North Yorkshire County Council for community secondary schools in Harrogate.

I determine that the arrangements as determined by North Yorkshire Council stand for admissions in 2009, but that a full consultation on possible models for allocating places be conducted before determining the arrangements for 2010 to achieve more equitable arrangements for all applicants, town and rural, for a place at Harrogate community schools.

The referral

1. A group of parents, Drs J and B Hain, Ms J Dawson and Mr O Rees, Ms L Pearson, Ms C Baker, Mrs K Clark, Mrs W Shortman, Mr and Mrs A Pettet, Ms J Thompson, Mr and Mrs D Levine, Mr C Smith-Dunn, Mr and Mrs L Cunningham, Mrs J Johnston, Ms A Morgan, M W Sellers, Mr and Mrs D Burnside, Mr and Mrs C Craddock, Ms R Moore, Dr and Mrs D Lawson, A Brook-Dobson, Mr and Mrs A Milnes, Mr and Mrs M Gray, Ms H Fish, Ms H Devey, Mr and Mrs D Ketley Mrs L Bole, Ms J Elberg, Mr and Mrs M Priestley, Ms S Erbilir, J A Newton, Mr and Mrs N Bottomley, Mr and Mrs M Roberts, Ms J Stevenson, Ms J Tinsley, Mrs S Richmond, Mr G Jones, Mr and Mrs S Atkins, Ms S McQueen, Ms K Simpson, Mrs F Daley, C Connell, Ms F Jennings and Mr and Mrs L Thomas, has referred an objection to the Adjudicator about the admission arrangements ("the arrangements") for community schools in Harrogate ("the schools"), for September 2009. The objection is to the priority given to applicants from the Harrogate rural area over those from the Harrogate town area.

Jurisdiction

2. These arrangements were determined under section 89(4) of the School Standards and Framework Act 1998 ("the Act") by North Yorkshire County Council, the local authority (LA) which is the admission authority for the schools. The parents' objections were received by the Office of the Schools Adjudicator (OSA) between 1 and 14 July 2008. I am satisfied that this objection has been properly referred to me in accordance with section 90 of the Act, and that it falls within my jurisdiction.

Procedure

3. In coming to my conclusions, I have had full regard to the Act and Regulations made thereunder, the School Admissions Code ("the Code") and all the evidence presented so far as it is relevant to the objection. I have also had regard to the relevant provisions of: The Sex Discrimination Act 1975; The Race Relations Act 1976; The Disability Discrimination Act 1995; and to The Human Rights Act 1998.

4. The documents I have considered in reaching my decision include:
- a. the letters from the objectors, supporting documents and subsequent correspondence;
 - b. the LA's response to the objection, supporting documentation and subsequent correspondence;
 - c. the LA's booklet for parents seeking admission to schools in the area in September 2009; and
 - d. maps of the area identifying relevant schools.

The Objection

5. The objection is to the part of the arrangements that says "Children in the Harrogate rural area are given priority over children in the Harrogate town area."

6. The objectors argue that a child living in the Harrogate rural area is guaranteed a place at the highest preference school listed by his/her parents, which means that children who live in Harrogate town, even those living close to their preferred school, have a lower chance of gaining a place. The objectors refer predominantly to the uncertainty of those living near to Harrogate Grammar School being sure of obtaining a place at that school.

7. The priority given to applicants from the rural area is regarded as unfair, for example it contravenes 1.65c of the Code which says "In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places: are procedurally fair and are also equitable for all groups of children".

Background and Consideration of Factors

8. Harrogate has five comprehensive, 11-18, secondary schools. Three are community schools: Harrogate Grammar School (HGS); Harrogate High School (HHS) and Rossett School (RS); and two are voluntary aided schools: St Aiden's Church of England High School and St John Fisher Catholic High School. Two of the three community schools, HGS and RS, are within approximately one mile of each other, the third, HHS, is about two miles away. All three schools are located centrally and are in relatively close proximity to each other.

9. The normal local area for the community schools is divided into

Harrogate town area and Harrogate rural area. The rural area extends south to the Leeds and Bradford boundaries, west towards Skipton and north towards Ripon. At its furthest, the boundary of the rural area is about 16 miles outside Harrogate.

10. The oversubscription criteria previously included an elevated second preference system that took into account the variation in the area served by the Harrogate schools. This arrangement is no longer allowed under the provisions of the Code.

11. The oversubscription criteria in the admissions policy for community schools in North Yorkshire are, in summary, 1. Looked after children; 2. Special social or medical needs; 3. children living within the normal area of the school; 4. children living outside the normal area of the school. The tie break within each criterion is first priority siblings and then on distance.

12. For places in September 2008,

	MAL	OM	TA	S,1,2,	NAS	NA	ONA
HGS	256	256	875	5	118	133	0
HHS	257	209	368	1	54	137	17
RS	235	235	744	0	78	157	0

MAL-maximum admission limit; OM-offers made; TA- total applications, all preferences; S,1,2- statement of special educational needs and criteria 1 and 2; NAS- normal area plus sibling; NA- normal area no sibling; ONA- outside normal area.

13. Two of the three community schools are highly oversubscribed, as are the two voluntary aided schools which draw pupils from a wider area than the community schools. Parents are showing a marked preference for these two community schools compared with the third. For HGS at the time of publication of the admissions booklet for 2009 there was a waiting list of 181, and 68 appeals were pending, for RS 80 and 30 respectively and for HHS no waiting list or appeals.

14. The LA says that giving priority to rural applicants has been in place since the 1970s. The exact way this was done has changed as the authority had an elevated second preference system prior to the current Code. I am not persuaded that because something has been done in a particular way for a long time this means it must stay. The reasons for a way of doing things need to be carefully examined and if a procedure is to be changed, it needs to be changed for something that can be justified as fairer all round. I accept and agree with the need to take full account of the position of rural applicants so that they are not disadvantaged, as could so easily be the case.

15. Between 2003 and 2008 the town cohort has varied between 685 and 750, and the rural cohort varied between 136 and 170. For admissions in 2008 the rural cohort was the highest it has been and the town cohort the lowest. In 2007, 176 of the pupils allocated HGS came from LA town schools,

48 from LA rural schools and 28 from others including independent, home educated and Leeds primary schools. In 2008, the numbers were 154, 70 and 32 respectively. Each year 39 places were allocated to pupils from Western Primary School, a school referred to in some of the objectors' letters.

16. Theoretically, if the number of rural pupils increased year on year, and they all preferred the same school, there would be ever fewer places for town children at that school. This would be unfair on my opinion.

17. I understand the objectors' view that rural parents seem to be guaranteed their highest preference school and to them this is unfair. The objectors, however, seem only to be anxious about gaining a place at HGS, but as the arrangements for that school are the same as those for the two other community schools in Harrogate the criteria must work across the whole of the Harrogate area, rural and town. I must consider the oversubscription criteria as they apply to the three community schools.

18. I agree with the objectors that as currently framed the arrangements are not procedurally fair and are not equitable for all groups of children. The arrangements do not in my view enable all parents to feel they have the same opportunities to apply for the schools they want for their child, which goes against the Government's aim published in the Code.

19. Having concluded that the arrangements are not fair, I have considered whether I can amend them to achieve greater fairness for admissions in 2009.

20. It is inevitable that if one or two schools are disproportionately preferred to others, not all parents can have their highest preference met. Also, it might be that one school is the most popular community school this year, but in a year or two's time it might be a different school that is most sought after.

21. Some of the objectors have proposed that the admission authority should use distance to the nearest secondary school for rural applicants. This suggests that a rural applicant would be directed to a school and it is not clear to me how an applicant would ever be able to gain a place at one of the other schools that might be a more preferred school for an applicant. If distance alone were the main criterion for admission to the schools, it would be likely that given the number of children in Harrogate town area compared with Harrogate rural area no parent in the rural area would have any chance of ever securing a place at the most popular school unless that were the school nearest to them at which they were guaranteed a place. Distance to the nearest school as the sole criterion would potentially be even less fair for rural applicants than the priority currently given to rural applicants is for town applicants.

22. Furthermore, the objectors have not proposed that the same single distance criterion should be applied for town children. If it were used it might be a popular move with those who live very close to the school of their highest preference, but it would be very unpopular with those who live just a little further away.

23. I am not persuaded that distance alone would be fair for rural or town

applicants.

24. Another model would be to allocate places at each of the three schools in the same proportion as town and rural applicants. If school X had 250 places, then taking account of the current criteria about 70 places might be required for pupils with a statement that names the school, looked after children and siblings of both town and rural pupils. Across the whole Harrogate area there might be 175 rural and 700 town applicants for a place at a Harrogate secondary school. The 180 places remaining at school X would be allocated in the ratio 1 rural to 4 town giving 20% of the places to rural applicants and 80% to town with a rural and town applicant having the same chance of gaining a place at school X, their highest preference school. A fair criterion would be required to decide which of the town applicants would gain a town place and which of the rural applicants a rural place. Such a criterion could be distance, or random allocation, or catchment. But each of these, and any other would be likely to have its own advantage and disadvantage, and degree of popularity.

25. There are other models that could be considered, including defined town and rural catchment areas for each secondary school.

26. Other factors to be considered in relation to arrangements have been raised by some of the objectors. The environmental impact of walking to school rather than being driven has been put forward by some objectors as a reason for ensuring they obtain a place at the school they wish which they say is the nearest one to them. It is indeed desirable that as many children as possible do walk to school, but it is also important that whether a child gains a place at a particular school does not depend on their parents' ability to buy or rent a house in the locality of the school.

27. Some objectors allege that some parents have moved to the rural area in order to take advantage of the priority given to rural applicants, and then when they have gained a place they move back to the town. I am not in a position to check the veracity of these allegations. It is up to the admission authority to investigate whether a place has been gained on the basis of a fraudulent or intentionally misleading application from a parent and withdraw that place if necessary. Arrangements that are equally fair for town and rural applicants should remove the temptation, if it exists, to try to manipulate the system.

28. I am not persuaded that there is an alternative for the arrangements that I can determine to be used for admission in 2009 that would provide greater fairness and not unintentionally introduce a different or even greater degree of inequity.

29. I have considered for how long I should protect the arrangements, the expected three years or less. I have concluded that although the unqualified priority given to the rural area is unfair, I am unable to put in place an alternative that I can be certain would be an improvement during the current round of applications. I am therefore protecting the arrangements for one year only so that that admissions authority can devise and assess the fairness of alternative ways allocating places and consult fully on these options before

determining the arrangements for 2010. Admission arrangements for a highly oversubscribed school will never please everyone, but they must be fair.

Conclusion

30. For the reasons given above, I uphold the objection to the admission arrangements for community secondary schools in Harrogate. In rightly trying to ensure that rural applicants are not disadvantaged when applying for a place at a Harrogate school, the priority afforded rural applicants gives them an unfair advantage compared with town applicants in securing a place at an oversubscribed school.

31. It is not practicable to devise alternative ways of allocating places and test the advantages and disadvantages of each of them to ensure that different arrangements are not even more unfair. I am therefore leaving the arrangements in place for one year to allow the LA to review and consult fully on other ways of allocating places that are fair for rural and town applicants.

Determination

32. In accordance with section 90 (3) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by North Yorkshire County Council for community secondary schools in Harrogate.

33. I determine that the arrangements as determined by North Yorkshire stand for admissions in 2009, but that a full consultation on possible models for allocating places be conducted before determining the arrangements for 2010 to achieve more equitable arrangements for all applicants, town and rural, for a place at Harrogate community schools.

Dated: 29 September 2008

Signed:

Schools Adjudicator: Dr E Passmore