

20 February 2017**Agenda Item: 4****REPORT OF THE ACTING SERVICE DIRECTOR, EDUCATION STANDARDS
AND INCLUSION****NOTTINGHAMSHIRE SCHOOL ADMISSION ARRANGEMENTS****Purpose of the Report**

1. To agree, taking into account the judgement of the Schools Adjudicator received on 31st January 2017, the following:
 - arrangements for the admission of pupils to Nottinghamshire community and voluntary controlled schools for 2018-2019
 - actions in relation to the agreed admissions arrangements for 2017-2018.
 - actions in relation to the 2016-2017 agreed admissions arrangements.

Information and Advice**The 2018-19 Admissions Arrangements**

2. All admission authorities must determine their school admission arrangements by 28 February every year, even if there have been no changes from previous years.
3. As the local authority, the Council is the admission authority for community and voluntary controlled schools in Nottinghamshire and is therefore responsible for determining the admission arrangements for these schools.
4. The Council is also responsible for coordinating admission arrangements for all publicly funded schools in its area when parents are applying for a first admission or when applying for their first year in secondary school. For in-year applications outside of these two admission rounds, there is no requirement for the Council to administer applications on behalf of own admission authorities although many academies do voluntarily take part in the scheme run by the Council to coordinate their applications. (**Appendix 1 section 4**).
5. There are limited circumstances in which in-year changes can be made to the school admission arrangements once they have been agreed. These include a decision by the Schools Adjudicator or a change in the law.
6. **While parents may express a preference for any state funded school – regardless of whether it is the local authority area in which they live – admission authorities cannot by law give any guarantees that a preference will be met.**

Statutory consultation

7. Where changes to admission arrangements are proposed, a six week period of consultation must be undertaken. For the admission arrangements for 2018-2019, this was undertaken between 3 October and 27 November 2016.
8. The consultation was available on the Council's website and information about where to access the consultation was sent in advance to:
 - all community and voluntary controlled schools in Nottinghamshire
 - all own admission authority schools in Nottinghamshire
 - majority of chairs of governing bodies of Nottinghamshire schools
 - all neighbouring local authorities
 - diocesan representatives
 - all registered early years providers within Nottinghamshire.
9. The consultation was promoted widely on the Council's social media accounts and by posters distributed to libraries, schools and children's centres county wide. Consultees were invited to respond by emailing or writing to the County Council. All responses received by 27 November 2016 were considered.

Outline of Nottinghamshire County Council's consultation

10. The consultation asked four questions about overall policies and procedures, proposed admission numbers, the coordinating arrangements for admissions and about the in-year scheme.

Responses to the consultation

11. Responses to the consultation were as follows:
 - i) 832 online responses
 - ii) 10 email responses
 - iii) 1 petition from the 'Fairness4Siblings' campaign group handed in (circa 4,580 signatures) with a request that this be included in consultation responses.
12. The responses for each of the three groups are summarised alongside a detailed analysis which is included in **Appendix 2**. A redacted version of the full consultation responses is available as a background paper.
13. As well as considering the responses received from this consultation, account has also been taken of the findings of the Schools Adjudicator in his decision dated 31st January 2017. Details of the judgement are set out in **paragraph 16** below.
14. It is recommended that the admission criteria set out in **Appendix 1** to this report are adopted and approved for the admission year 2018-2019. The most notable change is the reinstatement of the priority for out of catchment siblings in the oversubscription arrangements.

The Admission Criteria for 2017-2018

The findings of the Schools Adjudicator re 2017-2018 arrangements

15. Prior to 2016, Nottinghamshire County Council's admission arrangements for community and voluntary controlled (VC) schools included some priority for out of catchment siblings within the oversubscription criteria. This was changed with effect from September 2016 when priority for out of catchment siblings was removed. These arrangements continued for 2017-2018. An objection was made to the Office of the Schools Adjudicator (OSA) in May 2016, with specific reference to High Oakham Primary School on a number of grounds including that the removal of the priority for out of catchment siblings was unfair. The Adjudicator's decision was published on 31 January 2017.
16. The Adjudicator ruled that the change in the criteria was unfair on the grounds that more people were disadvantaged by the change than if no change had taken place and that as there was no clear or evidenced based reason for the change, it must be unfair. On other grounds of objection the Adjudicator did not uphold the objections raised.
17. There was a decision that a statement was missing from the agreed arrangements for 2017-2018 concerning the deferred entry of children below compulsory school age and this was rectified in October 2016 and the Schools Adjudicator notified.
18. The Adjudicator clearly stated in his judgement that it would be unfair to implement the change to admission criteria for the 2017-2018 normal admission round. Paragraph 50 states: *"I have set a deadline of 28 February for the arrangements of the school to be changed. This is the deadline for the determination of arrangements for admission to the school for September 2018. Parents will already have applied for places at the school for 2017 based on its existing arrangements and it would not be fair for different arrangements now to apply to the consideration for those applications."* The ruling does, however, state that revised criteria, including priority for out of catchment siblings, should be applied to waiting lists for 2017: *"new arrangements determined in the light of this determination will apply to the waiting list which the local authority is required to maintain by virtue of paragraph 2.14 of the Code"*.
19. Therefore, applications for the academic year 2017-2018 in the normal admissions round, will be processed according to the oversubscription criteria, previously agreed for the academic year 2017-2018. This means that for parents who are applying for a school place in the academic year 2017-2018, their school place will be allocated on offer day, 18th April 2017, in accordance with the previously agreed arrangements which do not give priority to out of catchment siblings. Following offer day and from 4th May, late applications and any changes to preferences will be processed in accordance with the revised arrangements which reinstate priority for out of catchment siblings, where school places are available. See **Appendix 3**.
20. The adjudication does not direct the admission authority to take any action in relation to the 2016-2017 agreed admission arrangements: *"I have decided that it is not appropriate for me to determine any issues in relation to the arrangements for September 2016"*.
21. However, the code of practice on admissions clearly states that where there are 'exceptional circumstances', parents should be offered a second application. It is clear

that there are exceptional circumstances here in relation to those parents who can evidence a sibling connection at their preferred school. The criteria for admissions is only applied when a school is oversubscribed so offering another application in effect means offering a second appeal to parents against the decision to refuse their child admission to their preferred school. For clarity this second right of appeal relates only to those parents refused their preference during the 2016-2017 admission round and who can evidence a sibling connection. **It is equally important to note that there is no guarantee of a place for any child as a result of a second appeal.** The appeal process will be undertaken in accordance with the code of practice on appeals by an independent panel of members.

22. It is proposed that the affected parents who are known to the authority because they had previously applied citing a sibling connection and who had previously appealed, will receive a personal letter offering a second appeal. Information on this second appeal process will be published on the website and via schools to ensure affected parents are aware of the right to a second appeal in the above circumstances. Attached as **Appendix 4** is a set of Frequently Asked Questions to assist parents.

Other Options Considered

23. The Authority is required to implement the judgement of the Schools Adjudicator but actions could have been limited to High Oakham Primary School and to the admission criteria for 2018-2019 and the waiting lists for 2017. In addition, consideration could have been given to phasing the process by preserving priority for existing siblings only.

Reason/s for Recommendation/s

24. To enable the County Council to meet its statutory responsibility to determine Nottinghamshire County Council's admission arrangements by 28 February 2017 and to comply with the decision of the Schools Adjudicator.

Statutory and Policy Implications

25. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Public Sector Equality Duty Implications

26. A copy of the Equalities Impact Assessment is available as a Background Paper on the County Council's public website.

Implications for service users

27. Over 25,000 families express a school preference each year. In drawing up these admission arrangements, Nottinghamshire County Council ensures that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.

RECOMMENDATIONS

That:

- 1) proposed admission arrangements for 2018-2019 as detailed in **Appendix 1 are determined**, including:
 - admission oversubscription criteria for community and voluntary controlled schools, as detailed in Section 1
 - published admission numbers, as listed in Section 2
 - the coordinated schemes in Section 3 and Section 4.
- 2) the agreed admissions arrangements for 2017-2018 remain unchanged but revised oversubscription criteria as set out in **Appendix 3** is applied to places allocated from the waiting list for 2017 admissions and for late applications.
- 3) a second right of appeal is offered to these parents whose first preference was refused in 2016 and who can evidence a sibling connection.
- 4) an update report is brought back to Committee to update Members about the impact of the revised arrangements.

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Constitutional Comments (KK 08/02/17)

28. The proposal in this report is within the remit of the Children and Young People's Committee.

Financial Comments (TMR 31/01/17)

29. Any additional costs in offering a second right of appeal will be met from within the Children's services existing budget provision. Independent appeals that admit a child

into a Reception class which exceeds infant class regulation by 10% will access interim funding from the Pupil growth Fund, thus impacting school budgets.

Background Papers and Published Documents:

Equalities Impact Assessment available at www.nottinghamshire.gov.uk

Consultation documents available on the consultation database at <http://site.nottinghamshire.gov.uk/thecouncil/democracy/have-your-say/consultations/?entryid141=604490&q=0~admission~12580993~Completed~>

Office of the Schools Adjudicator report at <https://www.gov.uk/government/publications/high-oakham-primary-school>

Comments received - online consultation and petition

School Standards and Framework Act (SSFA) 1998, available at www.education.gov.uk

School Admissions Code (SAC) 2014, available at www.education.gov.uk

School Admission Appeals Code (SAC) 2012, available at www.education.gov.uk

Office of the Schools Adjudicator (OSA) Determination ADA3202, ADA3245, ADA3246, ADA3248 (31 January 2017) available at www.gov.uk

Local Government Ombudsman, "Infant class size appeals", available at www.lgo.org

Electoral Division(s) and Member(s) Affected

All.

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