

Review of Admission Arrangements & School Travel Policies – Final Report

Purpose of Report

1. This report presents the information gathered in support of the review and the Committee's findings and recommendations.

Background to Review

2. At a scrutiny work planning event held in July 2011, Members of this committee discussed a range of possible topics for scrutiny review this municipal year. The issue of the changing demographics for York's primary schools was raised as a matter of concern and as a result it was agreed to proceed with this review.

Council Plan 2011-15

3. This review supports the Council Plan in that the provision of appropriate and improved local infrastructure (including schools) will help to build strong communities.

Consultation

4. Senior officers working within School Organisation & Support have assisted Members with their work on the review. The committee held two informal information gathering sessions and met with the Head teachers from Hempland Primary School and Scarcroft Primary School.

Information Gathered in Support of the Review

5. York Primary Schools' Admissions Arrangements
The Local Authority (LA) is the admissions authority for all 43 Community and Voluntary Controlled Primary Schools (including Infant schools) across the LA area. The LA also coordinates the admissions process for all schools, whether Community, Voluntary Controlled, or Voluntary Aided.

6. The LA first established the policies upon which its admission arrangements are based in 2002, following extensive consultation. The principle behind the arrangements is that every child has a guaranteed place at the school where their home address falls within its catchment area. However the arrangements include an equal preference system whereby parent/carers can select up to 5 schools for which they have a preference. Each of these preferences is considered by the LA and/or Voluntary Aided schools, but only one school is offered. This will be the highest ranked school that can be offered.
7. For September 2011 entry, the LA allocated 1,966 places. 93% of these allocations were for the parent/carers' first preference. 97% were allocated a school at either their first or second preference. Only 61 parent/carers appealed against the LA's decision, and of these, only 2 were successful. 80% of these appeals were heard on Infant Class Size grounds i.e. the limit of 30 pupils to one teacher in a class of 5, 6 or 7 year olds.
8. Where there are more applications for places than places available at any given school, applications are ordered according to the oversubscription criteria within a Local Authority's Admissions Policy. The criteria apply to both Community and Voluntary Controlled schools. If a child meets more than one criterion e.g. is both a sibling and resident in the catchment area, then they are categorised under the higher of the two priorities. However, the admission of pupils with a statement of special educational needs is covered by separate admission regulations which are allocated *before* the application of an LA's oversubscription criteria.
9. Waiting Lists
If after the allocation of places there are applicants who are unsuccessful in obtaining a place of their first preference (or a higher preference than they were allocated), then these applicants will form a waiting list.
10. Through the waiting list system, applicants who are unsuccessful on the offer day of 1 April may receive a place through either the independent appeals process, or through movement from waiting lists where applicants change their preferences, take up a place in the independent sector, or through movement in and out of the LA area.
11. Understanding Primary School Demographics across the City
At an informal meeting in September 2011 the committee received a detailed presentation on primary school demographics across York– see

copy at Annex A, which drew attention to the ongoing issues around supply and demand i.e.:

- Ensuring the Local Authority's Admissions oversubscription criteria are fair and the catchment system works for parents and the LA?
- Ensuring the Local Authority's school travel policies are fair and appropriate and understanding the implications for school travel given the changing demographics
- The provision of new schools and the changing role of the Local Authority (LA) in relation to Academies and Schools' partnership
- The effect of new housing developments e.g. Germany Beck, Fulford (175 primary pupils), Derwenthorpe, Osbaldwick (135), British Sugar (250+) and York Central

12. Having considered all of the information presented, the Committee agreed to focus their review on the examination of whether:

- a) The oversubscription criteria in use in York's Community and Voluntary Controlled schools, is made up of the right priorities, and in the right order?
- b) The current School Travel Policies are fair and appropriate given the changing demographics?

Objective A - The Oversubscription Criteria

Information Gathered

13. The oversubscription criteria in York are as follows:

- *First priority: ('Looked After') Pupils looked after by a local authority – this applies to all pupils who are in the care of a local authority or are provided with accommodation by the authority (see section 22 of the Children Act 1989);*
- *Second priority: ('Catchment') Pupils who live within the catchment area normally served by the school – catchment areas are designated by the City of York Local Authority and are made available to parents via the annual Guide for Parents or from the School Services team;*

- *Third priority: ('Exceptional') Pupils considered by the Local Authority to have exceptional social or medical needs which relate to the preferred school* – the Local Authority may consult with other medical/educational professionals for a further opinion as to whether a pupil should be allocated a place to an individual school due to a particular medical condition or social need;
 - *Fourth priority: ('Siblings') Pupils with siblings at the school in September 2011* – siblings are defined as brothers or sisters living in the same house, as their primary place of residence, including half- and step-brothers or sisters;
 - *Fifth priority: ('Distance') Pupils who live closest to the school using the nearest available safe walking route* - distances are measured by a GIS mapping system from the child's home address to the entrance of the school.
14. *Faith Schools - Oversubscription Criteria* - The seven Voluntary Aided Primary Schools in York are their own admissions authority, giving the highest priority to children of their respective faith(s). They also tend to prioritise children living in the relevant parish area, before children with siblings currently in attendance at their school. For their 2012-2013 admissions arrangements, 6 schools have placed 'catchment' before 'siblings', whilst only 1 school has placed the admission of siblings before children resident in the (parish) local area.
15. The Committee were informed that catchment areas for LA primary schools do not overlap and that a majority of the voluntary aided schools have no catchment areas.
16. Oversubscription in York - 2011-2012
 For September 2011, 27 Primary and Infant schools were oversubscribed on 1 April 2011. However, by 1 September 2011, this had reduced to 24 schools. The Committee received detailed information on the September 2011 intake including which Primary and Infant Schools in York were oversubscribed and the nature of their oversubscription as follows:
17. *Oversubscribed Schools refusing 'Catchment' or 'Siblings'* – Both Hempland Primary School & Scarcroft Primary School were oversubscribed and had insufficient places for all children who were 'siblings' i.e. the parents already had a child in attendance at the school, but did not live within the catchment area.

18. The Committee learnt that because both schools give a higher priority in their oversubscription criteria to 'catchment' children over 'siblings', those children were not allocated a place and were therefore offered a place at a school of a lower preference. For both schools the LA investigated to see if any additional pupils could be admitted to minimise unsuccessful sibling applicants.
19. The Committee were informed of the actions taken by the LA in response to both school's oversubscription. In the case of Hempland Primary School, the admission limit of 60 places meant the admission of any further pupils would have breached Infant Class Size legislation, and so no further pupils could be admitted. Most siblings affected for 2011 lodged an appeal, but all were unsuccessful on Infant Class Size grounds.
20. For Scarcroft Primary School, the admission number of 45 was raised to maximise the number of children within Infant Class Size limits. At first, 46 children were admitted. This later rose to 48 children as places became available from other year groups. This was only possible because the school mixed classes in Reception, Year 1 and Year 2 to Infant Class Size limits. Despite having to refuse some catchment children on 1 April, those children were subsequently either offered a place at the school, or changed their preference to another school. There were 5 appeals for the school, all heard on Infant Class Size grounds, and all were unsuccessful.
21. The head teachers from Hempland Primary School and Scarcroft Primary School met with the Committee to provide feedback on the issues they had faced around their oversubscription in 2011-12. They highlighted the impact on parents of the order of priorities within the LA's oversubscription criteria e.g. both schools had experienced parents with children (siblings) at different schools questioning whether the schools had done enough to help them. Whilst both head teachers recognised the difficulties those parents faced, they also commented on the strength of feeling that children should have access to their local schools. On that basis they both agreed that catchment should remain a higher priority than siblings. Both head teachers were also keen to point out the impact of having infant class sizes at the maximum of 30, and the adversity they were likely to face in later school years in trying to maintain the quality of education they currently provide, particularly in classes with mixed school years.
22. In the case of the other 22 primary schools who were oversubscribed for 2011-12, the LA had to act to increase the admission limit for 7 of those

schools as well as for a further 4 schools who had some places available but would have been oversubscribed if action had not been taken.

23. The LA acted to increase the admission limit of 30 places to 43 at Fishergate Primary School which meant that 33 'catchment' and 'sibling' children could be allocated a place. Without a raised admission limit, some siblings would have been refused a place. The coordinated move to an increased admission limit of 45 was achieved by working closely with neighbouring schools, particularly in supporting the admissions number at St George's RC Primary School (VA) nearby.
24. Similar interim action, achieved through discussions with school leadership was taken at Knavesmire Primary School, St Barnabas CE Primary School and Dunnington CE Primary School to support 'catchment' and 'siblings' for 2011/12.
25. Finally, in addition to raising admission limits where demand existed from within catchment or from siblings, the LA also took some further steps including:
 - Changing the Guide for Parents and Admissions letters to include specific guidance on the potential for siblings being unsuccessful in future years.
 - Increasing the number of preferences from 3 to 5 to increase parental preference and reduce 'unplaced' (un-preferenced) allocations.
 - Longer term place planning, including increasing the size of the intake, where this is possible – often from 30 to 45, particularly in areas currently short of places.
26. Previous Challenge to LA Oversubscription Criteria
The committee learnt of an objection had previously been raised in 2009 by two qualified parents, who were concerned with the low priority attached to children who have siblings attending their parents' preferred school – see Annex B.
27. Finally, for comparison purposes the Committee considered the oversubscription criteria in use by other similar sized / neighbouring local authorities – see Annex C.

Findings

28. The Committee noted that like York, half of the local authorities compared, gave a higher priority to children living within a school's

catchment area rather than those with siblings already in a school. And, only one council (North Yorkshire County Council) did not prioritise siblings within their oversubscription criteria at all.

29. They noted the national Adjudicator's determination in 2009 which confirmed that York's admission arrangements were compliant with the mandatory requirement set out in paragraph 1.72 of the Schools Admissions Code, and therefore fair and equitable, due to the fact that they operated on a consistent basis across the City, ensuring every family had a priority for admission to at least one local school.
30. The Committee also recognised that where oversubscription had occurred, the LA had worked with the relevant school to identify the most appropriate action required, and had always taken into consideration the effects it might have on neighbouring schools. For this reason action was only usually considered where there was an exceptional demand from within catchment, from siblings, or for children with 'exceptional' circumstances.
31. The Committee also reflected on the predictions for growth across the city and the impact that would have on the demographics, particularly in the South Bank area where they acknowledged that an expansion of the existing schools or a new school may be required in the future, which would require significant funding. However, they recognised that there was unlikely to be sufficient funding made available for this, and therefore other methods of reducing the predicted capacity issues would be required. They were pleased to note that officers were already responding to this long term concern by working with schools across the city to identify space within existing buildings currently being used for other purposes e.g.
 - Afterschool Clubs
 - Integrated Children's Centres
 - Art Rooms etc
32. The Committee acknowledged that in some areas of the city under-subscription may also become a concern in the future, which in turn may lead to some small primary schools becoming unsustainable.
33. Finally, the Committee were pleased to note that officers had already made changes to the letter to parents offering a place to a child living outside a school catchment area, to ensure it is explicit in its message that there is no guarantee of a sibling place at a later stage.

Conclusion

34. Having considered all of the information provided in relation to the LAs Oversubscription Criteria and the steps taken by the Local Authority to respond to oversubscription in 2011-12 where it occurred, Members agreed that the current criteria was made up of the right priorities, in the right order, and that it was robust enough to stand up to legal challenge. On that basis, Members therefore agreed it was not necessary to recommend any changes to the Oversubscription Criteria.

Objective B – School Travel Policies

Information Gathered

35. The national policy on the provision of free school transport specifies that children from low income families will qualify for free transport if they live more than 2 miles and less than 15 miles from the school. However, in regard to free school transport for denominational places, Members were informed that the national policy states its provision is discretionary and therefore Local Authorities do not have to provide it, they only have to give its provision due consideration. Several neighbouring authorities have through a regional association jointly drafted a policy – see Annex D, which outlines their duty (or not) to provide denominational transport (in point 6.1), including, –that their low income policy covers children from low income households who may attend a denominational school (point 6.2).
36. However, City of York Council has previously agreed that free transport will be provided for denominational places for those children who live more than 3 miles and less than 15 miles from a qualifying school. The Committee received the relevant extract from the Council's Home to School Transport Policy 2011/12 relating to this provision, and comparative information on the policies of other Local Authorities.
37. Members also received information on the numbers and cost to the LA of free school transport for 2010-11.

Findings

38. Having considered the numbers and cost, Members noted that these were not just for those with special needs and for geographical distance

reasons, but also for the provision of free transport to children with denominational places. They therefore requested a more detailed breakdown of the figures, including a comparison with the provision of free school meals – see Annex E.

39. Whilst respecting parent's choice, Members agreed that in their view the current arrangements for the provision of free school transport on a denominational basis were unfair and inequitable to all pupils across the city i.e. pupils receiving a denominational place and therefore receiving free transport were at an advantage over other pupils attending the same school. They therefore agreed to investigate further the possible consequences of withdrawing that provision.
40. Firstly, the Committee requested some feedback from East Riding of Yorkshire Council on their experience of withdrawing the provision of free transport for denominational schools in 2005 – see Annex F.
41. Next, taking account of the need to still provide transport for those pupils living in rural areas on the basis of distance from school, Members requested information on the cost of a phased withdrawal of the free transport currently being provided by the LA on a denominational basis.
42. Officers provided information on a number of options, detailing a range of potential savings broken down into primary and secondary school and by transport type, on a year by year basis - see Annex G. These provided a range of potential savings particularly with school buses. Members noted that for Private Hire and Buses the cost would step down over time as fewer vehicles (or smaller vehicles) are required. This was supported by the experience of East Riding of Yorkshire Council.
43. Taking into account that any withdrawal of free denominational transport could not begin until September 2013, the figures shown in Annex G indicate that Option 3 could generate the greatest saving i.e. a potential maximum annual saving of £137k by 2019. However, East Riding's experience was that the transport was not required much earlier than thought and on that evidence, it may be possible to make the saving sooner.
44. Members noted that prior to the Cabinet approving the withdrawal of free transport on a denominational basis, statutory consultation with the relevant bodies e.g. Diocesan Board would need to be undertaken and an Equality Impact Assessment carried out. If the Cabinet then choose to approve the withdrawal, a further consultation period informing parents

of the forthcoming change would need to be carried out. Officers have confirmed that all this consultation could be completed by July 2012 to allow for any approved changes in policy to be reflected in the relevant documentation, in time for it to be sent out in summer 2012 to parents of those pupils due to transfer to secondary school in September 2013.

Conclusion

45. Having considered all the information provided in support of the second objective of this review, the Committee agreed the current arrangements for the provision of free school transport on a denominational basis were not fair or equitable to all pupils across the city. However, in order not to adversely affect those families with children currently receiving free transport on a denominational basis, the Committee agreed the best approach would be that of a phased withdrawal i.e. those currently receiving free school transport on a denominational basis would continue to do so until they leave school, but any new pupils taking up denominational places as from September 2013 would not receive it.
46. The Committee were informed that prior to the Cabinet approving the withdrawal of free transport on a denominational basis, statutory consultation with the relevant bodies would need to be undertaken and an Equality Impact Assessment carried out. If the Cabinet then chose to approve its withdrawal, a further consultation period informing parents of the forthcoming change would need to be carried out. Officers confirmed that all the required consultation could be completed by July 2012 to allow for any approved changes in policy to be reflected in the relevant documentation, in time for it to be sent out in summer 2012 to parents of those pupils due to transfer to secondary school in September 2013.
47. Having appreciated why any withdrawal of free denominational transport could not begin until September 2013. And, having carefully considered the alternative approaches to withdrawing the transport detailed in the options shown in Annex G, together with the savings each option could potentially realise, the Committee agreed the fairest option was Option 3 i.e. the withdrawal of all free denominational transport and introduction of concessionary fares.

Recommendations

48. In regard to their first objective, and having considered all of the information provided and their findings, Members agreed the following recommendation:

- i. That no changes be made to the Local Authority's current oversubscription criteria.

49. Based on their findings in relation to the Council's current provision of free school transport on a denominational basis, the Committee recommended that the Local Authority commence appropriate statutory consultation, regarding:

- i. A phased withdrawal of free denominational transport be commenced as from 1 September 2013 in line with Option 3
- ii. The introduction of concessionary fares on transport provided by the Local Authority, whilst that provision exists, for new pupils taking denominational places, as from 1 September 2013
- iii. Working with those schools offering denominational places to support the implementation of this change in policy.

Reason: To ensure that the LA's provision of free school transport is fair and equitable to all.

Associated Implications

- 50. **Financial** – The withdrawal of free transport on a denominational basis would realise a saving for the Council from the school year 2013-14 onwards, as shown in Annex G. This saving would change year on year dependant on the number of denominational places offered to children living more than 3 miles and less than 15 miles from a qualifying school, and based on a phased withdrawal, would grow over the first five years i.e. as each school year ends, and a cohort of year 11 pupils receiving free transport leave school.
- 51. **Equalities** – The Committee agreed that the provision of free transport on a denominational basis was neither fair nor equitable to all pupils in the city, and therefore agreed its withdrawal was necessary. However, in order not to adversely affect financially those families with children currently receiving free transport on a denominational basis, they agreed its withdrawal should be phased.
- 52. The Equalities Act duty not to discriminate on grounds of religion or belief in the provision of services does not apply to the provision of school transport. However, the public sector equality duty does still need to be considered. As Members are aware this duty requires the Council to:

- Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act
 - Advance equality of opportunity between people who share a protected characteristic and those who do not
 - Foster good relations between people who share a protected characteristic and those who do not
53. The Council will normally confirm its compliance with that duty by completing an equalities impact assessment. This will be done as part of the statutory consultation process outlined in the recommendations arising from the review.
54. **Legal** – In certain circumstances the Council has a duty to provide free school transport and this may include travel to a denominational school. The duty applies to “eligible children”. A child is eligible if he or she:
- a. has special educational needs, disability or mobility problems which prevent him or her walking to school;
 - b. cannot reasonably be expected to walk because of the nature of the route to school;
 - c. lives outside walking distance and no suitable alternative arrangements have been made for him; or
 - d. is entitled to free school meals or his parents receive the maximum amount of tax credits
55. The recommendations arising from the review do not affect these duties. The proposal is that the Council adopts a policy of not funding transport where doing so is discretionary. It would be unlawful to adopt any policy which was incapable of allowing exceptions. The Council’s procedures do allow for appeals to Members against the application of the policy and this therefore allows exceptions to be considered.
56. In making a decision the Cabinet must have regard to guidance issued by the Secretary of State. The key part of the relevant guidance says:
- “the Secretary of State hopes that local authorities will continue to think it right not to disturb well established arrangements, some of which have been associated with local agreements or understandings about the siting of such schools*
- The Secretary of State continues to attach importance to the opportunity that many parents have to choose a school or college in accordance with their religious or philosophical beliefs, and believes that wherever*

possible, local authorities should ensure that transport arrangements support the religious or philosophical preference parents express.”

57. The Cabinet must consider that guidance but Members do not have to slavishly follow it. If there are other factors which, in the Cabinet's view, outweigh the considerations referred to by the Secretary of State, then a decision can be made to reduce the discretionary support.
58. The Human Rights Act includes a right to education in accordance with parental religious convictions. There is judicial authority that does not include a right to transport to a particular school and, even if that authority is wrong, the right to education applies only so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.
59. **Other** – There were no other known implications associated with the recommendations arising from this scrutiny review.

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Wards Affected:

All

For further information please contact the author of the report

Background Papers: N/A

Annexes:

Annex A – Presentation on Primary School Demographics across York

Annex B – National Adjudicator Determination September 2009

Annex C – Comparison Data for Oversubscription Criteria

Annex D – Regional Association Joint Policy on Home to School & College Transport

Annex E – Breakdown of CYC Denominational Transport Numbers & Costs 2010/11

Annex F – Feedback from East Riding of Yorkshire Council

Annex G – Potential Savings from a phased withdrawal of the transport currently being provided by CYC on a denominational basis