

## **Cabinet**

**28 August 2008**



### **Admission Arrangements for Durham Johnston Comprehensive School for September 2009: Decision of the School Adjudicator**

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**Report of David Williams, Corporate Director, Children and Young  
People's Services  
[Cabinet Portfolio Member for Children's Services, Councillor C Vasey]**

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#### **Purpose of the Report**

- 1 To inform Cabinet of the decision of the Schools Adjudicator relating to the admission arrangements for Durham Johnston Comprehensive School for school year September 2009 and the wider implications for school admissions across the County.

#### **Background**

- 2 On 14 April 2008 Cabinet decided that Durham Johnston School should have the same admission arrangements as all other Community Secondary Schools in County Durham. In addition, Cabinet decided that there should be areas of associated transport for the school and these areas should include Brandon, Bowburn, Langley Moor, Park Hill Estate, Heugh Hall, Meadowfield, Browney, Shincliffe and High Shincliffe.
- 3 Associated Transport is an admission criterion that gives children living in these areas higher priority than those living closer to the school.
- 4 As required by the Determination of Admissions Arrangements Regulations, a public notice was placed in the local press to advise parents of the decision. As a result a large number of parents referred an objection to the Office of the School Adjudicator about the admission arrangements for Durham Johnston School. A public meeting, chaired by the School Adjudicator, was held at the school on Thursday 26 June 2008.
- 5 On 9 July 2008 the Schools Adjudicator presented his decision (Annexe 2) and determined that for September 2009, the admission arrangements for Durham Johnston School should remain as the existing criteria with distance measured from either the Crossgate Moor or the Whinney Hill Site. He further ruled that these arrangements could not be extended beyond 2009 and that the County Council must embark on a new round of consultations to help determine criteria for September 2010 and beyond. He also stated that the designation of associated transport areas was entirely arbitrary, that some areas are not associated with the closest school and that this criterion was not open, fair nor objective.

- 6 The Schools Adjudicator report has wider implications, particularly in relation to Associated Transport, rurality and using distance as a tie-breaker. He goes on to say that the use of catchment areas or feeder primary schools are highlighted as the commonest kind of arrangements in other areas where there is mixed urban and rural housing. The views of the Adjudicator set out in detail in paragraph 13 of his determination could therefore need a radical change to existing criteria which would impact on all oversubscribed community and voluntary controlled secondary schools.
- 7 In the Autumn Term 2008 the County Council must consult all Governing Bodies on the admission arrangements for their school for year 2010/2011. As part of this consultation Senior Officers intend to:
- write to the Governing Body of Durham Johnston School and local members seeking their initial views on what the admission criteria should be and what tie-breaking strategy the Council should adopt in the event of the school being over subscribed;
  - invite parent representatives from Durham Johnston School to meet with Senior Officers to gain comments on what they feel would be appropriate admission criteria for the school; and
  - consult the Admissions Forum concerning the implications of the Adjudicator's report for Durham Johnston School and for the County as a whole for admission arrangements from September 2010.
- 8 In addition, to address the wider issues raised by the Schools Adjudicator, it is intended to consult all parents and other interested parties in the County by way of a public notice and consultation leaflet seeking views on the admission arrangements for all schools in County Durham.

### **Recommendations**

- 9 Cabinet is recommended to:
- (a) note the finding of the Schools Adjudicator and that his determination will be implemented, so setting aside the Cabinet's choice of admissions criteria for Durham Johnston School for September 2009;
  - (b) agree that officers now consult widely on admission arrangements for September 2010 and beyond as set out in paragraphs 7 and 8 above.

### **Background Papers**

Cabinet Report 14 April 2008 - Admissions Criteria 2009/2010 Durham Johnston Comprehensive School

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**Contact: Maureen Clare Ext: 3535**

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## **Appendix 1: Implications**

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### **Local Government Reorganisation**

**(Does the decision impact upon a future Unitary Council?)**

None

### **Finance**

None

### **Staffing**

None

### **Equality and Diversity**

The County Council must comply with the school Admissions Code to ensure that admissions criteria are fair across the County.

### **Accommodation**

None

### **Crime and disorder**

None

### **Sustainability**

None

### **Human rights**

None

### **Localities and Rurality**

None

### **Young people**

A direct impact on which young people will be given priority for admissions to schools.

### **Consultation**

Consultation will include School Governing Body, Head Teachers, Admissions Forum, Legal Services, Local Members the Public.

### **Health**

None

## **DETERMINATION**

**Case reference:** ADA/001246, 1247, 1248, 1249, 1267, 1279

**Objector:** Parents

**Admission Authority:** Durham County Council

**Date of decision:** 9 July 2008

### **Determination**

**In accordance with section 90 (3) of the School Standards and Framework Act 1998, I uphold the objection lodged by parents.**

**I determine that for September 2009 admissions, the arrangements for Durham Johnston School should be as set out in annex 2 to this determination, with distance measured from either the Crossgate Moor or the Whinney Hill site.**

### **The Referral**

1. A parent has referred an objection to the Adjudicator about the admission arrangements (“the arrangements”) for Durham Johnston (“the school”), a community secondary for September 2009. The oversubscription criteria as determined by the admission authority are set out in annex 1. The objection is to the decision to give priority to children living within certain ‘associated transport areas’ instead of to children for whom the school is nearest.

### **Jurisdiction**

2. These arrangements were determined under section 89(4) of the School Standards and Framework Act 1998 (“the Act”) by the Local Authority, which is the admission authority for the school. The first parental objection was submitted on 12 May 2008, with subsequent letters submitted over the following weeks. 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 Schools 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 the Human Rights Act 1998.

4. The documents I have considered in reaching my decision include:

- the Parents’ letters of objection and supporting documents;

- the response from the Local Authority to the objection and supporting documentation;
- the Council's booklet for parents seeking admission to schools in the area in September 2008;
- Maps of the area identifying relevant schools.

5. I have also taken account of information received during a meeting I convened on 26 June at the school. The meeting was attended by some 220 parents and representatives of the County Council, the school and the local community.

### **Context**

6. Durham Johnston School is a large, popular secondary school on the outskirts of Durham. It serves an area within the City and a number of villages to the south. The school is based on two sites: a main site at Crossgate Moor and an annex at Whinney Hill. In 2005, it was agreed to close the Whinney Hill site and embark on a major building project to allow all the teaching to be consolidated on the Crossgate Moor site. The building work is now in progress and the school hopes to vacate the Whinney Hill site before September 2009.

7. With the exception of Durham Johnston, secondary schools in the County have admission arrangements that give priority children as shown in annex 1 i.e. after children in public care there is priority for children living in 'associated transport areas'. These are defined as 'an area which is over two miles from the nearest school and from which the Authority provides designated transport to the preferred school in order to limit travel costs.' The tie-breaker is 'Pupils who live nearest to the preferred school'. Distance is assessed using a Geographic Information System to measure the shortest walking route. Routes are measured from the nearest school entrance of a house or flat to the nearest school entrance.

8. Since the early 1990s, the admission arrangements for Durham Johnston have been different. Durham Johnston has not given priority to children in associated transport areas but has (after children in public care) given priority to 'children for whom Durham Johnston is the nearest suitable school'. The public notice in 2005 announcing the amalgamation said that the admission arrangements would 'remain the same'. However, in the autumn of 2006, the governing body of the school asked that the arrangements should be changed because it realised that the closure of Whinney Hill would mean that the school would no longer be the nearest for children living in the villages. They asked that these areas be designated 'associated transport areas'.

9. In April 2007, the County Council decided that a review should be conducted and in April 2008 the Cabinet considered a paper from the Director of Children's services, which supported the view of the Admission Forum. It said that the arrangements for Durham Johnston should be brought into line with other County schools but no new areas of associated transport be created. The practical effect of the absence of associated transport areas would be that the tie breaker of distance would become the operative criterion for most children. On 14 April 2008 the County Council Cabinet decided that there should be areas of associated transport for the school and that those areas should include Brandon, Bowburn, Langley Moor, Park Hill Estate, Haugh Hall, Meadowfield, Browney, Shincliffe and High Shincliffe. The determined arrangements reflect this decision.

## **The Objection and Response**

10. The objection was lodged by parents who live closer to the school than those who live in the associated transport areas. They say that Durham Johnston is the closest school to their homes and is not the closest school to the associated transport areas. They say that there is no logic in the County Council's position. Transport costs would be increased by having to take children from the associated transport areas to Durham Johnston and that it is not fair that the views of parents who live in those areas should be regarded as more important than parents who live closer to the school.

11. The County Council's response is that the communities in the associated transport areas have a traditional association with the school. The Whinney Hill site is their closest school. Undertakings have been given that children from the associated transport areas would still have access. There is no reason why the school should not come into line with other schools in the County, most of which have associated transport areas as part of their arrangements.

## **Consideration**

12. A number of objectors were highly critical of the consultation process. It is evident that the County Council went to some lengths over a long period of time to consult parents. However, it was also apparent that the process was bedevilled by terms being used without definition in contexts where different groups of parents could easily be misled. Examples include:

- The 2005 Notice proposing the amalgamation said that the admission arrangements would 'remain the same.' Most people took this to mean that the same communities would be given priority for places. In fact, once the Whinney Hill site is closed, the same over subscription criteria mean that the villages lose their priority.
- The Admission Forum and the officers proposed that the arrangements for Durham Johnston conform to the arrangements of other Durham schools. In fact, there is in practice no commonality between the arrangements of Durham schools. They all (apart from Durham Johnston) refer to areas of associated transport but the practical effect on the people who are affected by the arrangements is not determined by whether or not that criterion exists. It is determined by how many areas of associated transport there are, where they are and how big they are. Some Durham schools have the criterion but no areas of associated transport; others have several of them.
- Terms such as 'live closest to the school', 'for whom the school is nearest', 'appropriate school', 'suitable school' and 'preferred school' have been freely used by different parties during the consultation process. Those terms all mean different things.

13. Having read all the papers and listened to parents and others during my meeting, I have concluded that four options had been raised during the consultation period. I list them below with my comments on each of them.

Option 1. This is the determined option (annex 1). Because there are fewer children living in the areas of associated transport than there are places at Durham Johnston, children living in those areas have in practice a guaranteed place at the

school. Other parents who live close to the school have no such guarantee. Their chance of a place depends on how many have been taken up by children in the associated transport areas and how close they live to the school. Moreover, the designation of areas of associated transport appears to be entirely arbitrary. Their purpose is stated as being to limit travel costs but some of them are not associated with their closest school. I have concluded that this option is not open, fair nor objective.

Option 2 This option is to have arrangements giving priority to children who live in areas of associated transport but not to designate any such areas. The option gives priority to non-existent people. Furthermore, the effective criterion is distance. Children who live close to the school have a very good chance of a place; those who live furthest away (such as those in the villages) have little chance of a place. Indeed, since the secondary schools are all situated in urban areas some miles from where they live, they find themselves on the bottom of the list of priorities for every school. I find this option unclear and unfair on children who do not live in urban areas.

Option 3 This option gives priority to children for whom Durham Johnston is the nearest but assumes that the Whinney Hill site is closed and only bases measurement from home to the Crossgate Moor site. Durham Johnston will not be the closest school for many of the children who live in the villages so they will not get priority. The effect for them is much the same as option 2 above and I find that situation unfair on them. Most of the villages concerned are not wealthy communities and the children there deserve better treatment.

Option 4 This option produces admission criteria that are the same as option 3 above (and the same as the 2008 arrangements for the school) but assumes that the Whinney Hill site is still part of the school. The Council says that by September 2009, when the children will start school, the building work will be completed at Crossgate Moor and the Whinney Hill site will be closed. They say there is little logic in making somewhere that is not part of the school a point of reference for measuring the distance between a child's home and the school. I agree with them on that point and they might be correct in their assumption that the school will have vacated the Whinney Hill site by September 2009. But the Whinney Hill site will still be open during the 2008-2009 school year, when parents are making their choices and when decisions are made. It is conceivable that the building work will be delayed and the site is still part of the school in September 2009. I have concluded that it would not be unreasonable to make school place allocations for one more year on the assumption that the Whinney Hill site is still part of the school.

## **Conclusions**

14. I have decided to uphold the objection and that the admission arrangements for 2009 should remain as they were for 2008, with distance being measured to either the Crossgate Moor site or the Whinney Hill site.

15. It is evident that these arrangements cannot be extended beyond 2009 and that the County Council will have to embark on a new round of consultations. In doing so the Council will no doubt take note of my remarks in paragraph 13 above; and that catchment areas or feeder primary schools are the commonest kinds of arrangements in other areas where there is mixed urban and rural housing.

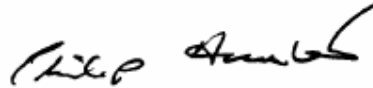
**Determination**

**In accordance with section 90 (3) of the School Standards and Framework Act 1998, I uphold the objection lodged by parents.**

**I determine that for September 2009 admissions, the arrangements for Durham Johnston School should be as set out in annex 2 to this determination with distance measured from either the Crossgate Moor or the Whinney Hill site.**

Dated: 9 July 2008

Signed:

A handwritten signature in black ink, appearing to read 'P. Hunter', written in a cursive style.

Schools Adjudicator: Sir Philip Hunter



## **Annex 1 (LA's determined arrangements for 2009/10)**

### **Admission Criteria for Community and Voluntary Controlled Schools (including Durham Johnston Comprehensive School)**

If more children want a place than there are places available, County Durham Local Authority will offer places according to the following criteria, strictly in order of priority:

- i. Children in Public Care**
- ii. Associated Transport \***  
Pupils who live in an area which is over 2 miles from the nearest school and from which the Authority provides designated transport to the preferred school in order to limit travel costs.
- iii. Medical Reasons**  
Pupils with very exceptional medical factors directly related to school placement. Applications under this criterion should be supported by written evidence from a doctor.
- iv. Family Links**  
Pupils who have a brother or sister already attending the school and who is expected to be on roll at the school at the time of admission.
- v. Distance**  
Pupils who live nearest the preferred school measured by the shortest walking route. This will be based on the parents' address.

#### **Please note:**

- a. If a school is oversubscribed with children in criterion (i), (ii), (iii) or (iv) places will be offered to those pupils who live nearest the preferred school (measured by the shortest walking route using the County Council's GIS measuring system).
- b. If the child cannot be offered a place at any of the preferred schools, we will offer a place at the nearest school to the home address that has places available.
- c. The Local Authority will consider individual applications involving medical needs. This kind of application must be supported in writing by relevant professional agencies i.e. a doctor. This supporting evidence should set out the particular reasons why the school is most suitable and the difficulties that would be caused if the child had to attend another school. Supporting evidence will be considered by a Senior Officer of the Local Authority and relevant health care professionals.

\* The designated associated transport areas for Durham Johnston School are: Brandon, Bowburn, Langley Moor, Park Hill Estate, Heugh Hall, Meadowfield, Browney, Shincliffe, High Shincliffe.

Annex 2 (Adjudicator's determined arrangements for 2009/10)

Admissions Criteria for Durham Johnston Comprehensive School

If more children want a place at Durham Johnston Comprehensive School than there are places available, the LA will offer places according to the following criteria, strictly in order of priority:

(i) **Children in Public Care**

(ii) **Pupils for whom Durham Johnston is the nearest suitable school**

(iii) **Medical Reasons** - Pupils with very exceptional medical factors directly related to school placement. Applications under this criterion should be supported by written evidence from a doctor.

(iv) **Family Links** - Pupils where the parental home is under 7 miles from Durham Johnston Comprehensive School who have a brother or sister already attending the school who is expected to be on roll at the school at the time of admission. This criterion will not apply to applications where the older sibling attends the sixth form but did not attend the school prior to entering the sixth form.

(v) **Pupils living in the former areas of 'associated transport' for whom Durham Johnston is not the nearest school**

(vi) **Pupils for whom Durham Johnston is not the nearest school**

**Notes**

In the event of oversubscription within any of the criteria, places will be offered on the basis of distance.

In calculating distances between parental homes and Durham Johnston, the nearest of the school's two sites will be used.

Where, as in criterion (ii), it is necessary to consider the distance between the parental home and any other suitable school, the distance will be measured to the main site of that school (i.e. the site where pupils attend for the majority of their school career).

All measures will be made according to the shortest walking route.

The term 'suitable school' is used here as defined by the 1996 Education Act, therefore no account has been taken of the location of St. Leonard's Roman Catholic Voluntary Aided Comprehensive School.

Maps showing the areas for which Durham Johnston is the nearest school are in the latest edition of the Durham Johnston Comprehensive School prospectus which is available directly from the school.

**If your child cannot be offered a place at any of your preferred schools, County Durham LA will offer your child a place at the nearest school to your home address that has places available.**

In listing your three preferences you need to be aware that **an 'equal preference' system has been introduced to replace the 'first preference first' system, which is no longer allowed by the government as of 2008. The LA will have to treat first, second and third preferences as separate applications and work out.**

Preferences registered with us cannot normally be changed until the initial offer of places is completed.