

BRIEFING PAPER FOR PORTFOLIO HOLDER FOR EARLY YEARS, EDUCATION & EMPLOYMENT

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BY THE CORPORATE DIRECTOR FOR CHILDREN AND ADULTS

PROPOSED ADMISSION ARRANGEMENTS FOR NOTTINGHAM CITY COMMUNITY SCHOOLS 2021/22

Legal Implications

Consultation

Section 88C(1) of the School Standards and Framework Act 1998 (“SSFA”), states that the admission authority for a maintained school in England must, before the beginning of each school year, determine in accordance with this section of the SSFA the admission arrangements which are to apply for that year. Section 88C(2) of the SSFA requires the admission authority to carry out such consultation beforehand about the proposed arrangements as may be prescribed.

The relevant regulations under section 88C(2) of the SSFA are the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (as amended) (“the Admission Arrangements Regulations”).

Regulation 12 of the Admission Arrangements Regulations deals with the persons who must be consulted. It states:-

- (1) *This regulation prescribes for the purposes of section 88C(2) the persons who must be consulted about proposed admission arrangements for a school.*
- (2) *Subject to regulation 14 the following persons must be consulted—*
 - (a) *whichever of the governing body and the local authority are not the admission authority;*
 - (b) *the admission authorities for all other schools in the relevant area;*
 - (c) *where the admission authority for the school are the local authority, any neighbouring local authority;*
 - (d) *parents of children between the ages of two and eighteen who are resident in the relevant area;*
 - (e) *such other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admission arrangements; and*

(f) in the case of a foundation or voluntary aided school which is designated as having a religious character by an order under section 69(3), the body or person representing the religion or religious denomination in question as specified in Schedule 3.

(3) For the purposes of sub-paragraph (2)(b) in the case of a primary school the admission authority need only consult the admission authorities for other primary schools.

(4) For the purposes of sub-paragraph (2)(c) a local authority are “neighbouring”, in relation to another local authority, if the areas of the two authorities adjoin to any extent.

Regulation 2 of the Admission Arrangements Regulations defines “relevant area” by reference to section 88F(4) of the SSFA. Section 88F(4) of the SSFA defines “relevant area” as the area of the local authority in which the school in question is situated unless the relevant regulations provide otherwise. Since the Admission Arrangements Regulations do not provide otherwise, the relevant area for the purposes of the law relating to the determination of school admission arrangements is the area of the local authority in which the school in question is situated.

Regulation 13 of the Admission Arrangements Regulations deals with matters to which consultation is to relate. Amongst other things, it states:-

(1) This regulation prescribes for the purposes of section 88C(2) the matters to which any consultation must relate.

(2) ... consultation must relate to the arrangements (including any supplementary information form) which the admission authority propose to determine as the admission arrangements for the school for the particular school year...

Regulation 16 of the Admission Arrangements Regulations deals with the manner of consultation. Amongst other things, it states:-

(1) During a period of consultation an admission authority must—

(a) publish their proposed admission arrangements on their website (if they have one), together with details of the person within the admission authority to whom comments may be sent, for the duration of the consultation held by virtue of regulation 12(1) and (2), and

(b) send upon request to each person who must be consulted by virtue of sub-paragraphs (a) to (f) of regulation 12(2) a copy of the proposed admission arrangements, inviting their comments.

...

(3) Communication under paragraph (1)(b) may be effected by the transmission of a copy of the proposed admission arrangements in electronic form.

Regulation 17 of the Admission Arrangements Regulations states the following:-

(2) For the school year 2017-2018 and every subsequent school year, every admission authority must –

(a) carry out any consultation required by section 88C [of the SSFA] and these Regulations between 1st October and 31st January in the determination year;

(b) allow consultees at least six weeks to respond; and

(c) determine their admission arrangements on or before 28th February in the determination year.

Regulation 2 of the Admission Arrangements Regulations states:-

“determination year”, in relation to the proposed admission arrangements for a school, means the school year beginning two years before the school year to which the arrangements relate;

Applying the above, then:-

- Since the proposed admission arrangements for the school year 2021-2022 relate only to community schools in the City of Nottingham, Nottingham City Council (“NCC”) is required to consult the following:-
 - the governing body of each NCC community school;
 - the admission authorities for all other schools in the City of Nottingham;
 - any neighbouring local authority (“neighbouring” local authority being any local authority whose area adjoins NCC’s to any extent);
 - parents of children between the ages of two and eighteen who are resident in the City of Nottingham; and
 - such other persons in the City of Nottingham who in the opinion of NCC have an interest in the proposed admission arrangements.
- This consultation must relate to the arrangements (including any supplementary information form) which NCC proposes to determine as the admission arrangements for City of Nottingham community schools for the 2021-2022 school year – this is clearly all set out in the current briefing paper.
- During this consultation, NCC must:-
 - publish its proposed admission arrangements on the NCC website, together with details of the person within NCC to whom comments may be sent, for the duration of the consultation, and
 - send upon request to each person who must be consulted a copy of the proposed admission arrangements, inviting their comments – this can be done electronically.

- Since the determination year for the admission arrangements for the 2021-2022 school year is the 2019-2020 school year (i.e. the school year beginning two years before the school year to which the arrangements relate), this consultation must be carried out between 1 October 2019 and 31 January 2020 and allow consultees at least six weeks to respond. Therefore, the period proposed by NCC for consultation on the proposed admission arrangements for the 2021-2022 school year of 1 October 2019 to 29 November 2019 is lawful.
- NCC must determine its admission arrangements for the 2021-2022 school year on or before 28 February 2020.

The proposed admission arrangements

The proposed admission arrangements generally accord with education law and guidance.

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