

Follow-up report to the Secretary of State for Children, Schools and Families on fraudulent or misleading applications for admission to schools

Background

1. On 7 July 2009 the Secretary of State wrote to the Chief Schools Adjudicator asking him to undertake an investigation into 'fraudulent or misleading applications' for admission to schools. Following work between late July and early September, and using data from 123 local authorities (LAs) a report was submitted to the Secretary of State on 1 October 2009.
2. One of the two recommendations in the report (paragraph 38) was that the Secretary of State should:

'Consider further actions that could be employed beyond 'withdrawal of places' where it can be proved that parents have knowingly used deception to gain a school place'.
3. In his letter to the Chief Adjudicator following the publication of the OSA Annual Report on 2 November 2009, the Secretary of State wrote saying:

*'I understand that some local authorities have suggested that criminal or civil penalties could be used to sanction parents that undertake deceptive behaviour. I have always been clear that it has not been and is not our intention that parents should be criminalised. But I recognise that it is a serious issue, and accept your conclusion that we need to look at further sanctions. **I would therefore like you to provide me with recommendations on how the problem should be addressed, bearing in mind the need for any sanctions to be legitimate and proportionate. I would appreciate a further report from you by the end of February 2010**' (my bold).*
4. There are 152 LAs in England with responsibilities for admissions, and over 4700 other admission authorities. This report refers mostly to 'LAs' rather than 'Admission Authorities' more generally as it is local

authorities that have the responsibility for coordinating admissions, and their admissions teams are in the forefront of detecting and dealing with fraudulent and misleading applications. It is of course the responsibility of all admissions authorities to do what they can to deal with this issue.

The 2009 report

5. If a school place is offered on the basis of a fraudulent or intentionally misleading application from a parent, the School Admissions Code (the Code) paragraphs 1.50 and 1.51 allow for the place to be removed, but once the child has started at the school it is advised that this should only be removed having taken into account how long he/she has been there. The Code suggests that it may not be appropriate to withdraw the place after a longer period, say one term, has elapsed.
6. Most of the 123 LAs that responded were prepared to withdraw offers in appropriate cases, but many were reluctant to 'punish the child' by removing the place once he/she has begun at the school.
7. The majority considered that this sanction was sufficient to deal with the issue, but a significant minority called for further sanctions to be available
8. Many LAs that called for further sanctions wanted the ability to initiate criminal action against the most blatant offenders. There was some debate about whether current legislation is appropriate, and certainly one LA found that an attempt to take a parent to court using the Fraud Act proved unsuccessful.
9. The Secretary of State, in his letter dated 2 November 2009 responding to the report, accepted one additional sanction proposed in the report beyond '*withdrawal of places*', to:

'Clarify, through the Code or otherwise, that a parent who obtains a school place by deception, but does not have the place removed due to the LA or appeals panel considering the best interests of the child, would not be able to gain priority over other applicants by using the 'sibling link' for subsequent children in future years'.
10. The full report dated 1 October 2009 is attached as an Annex to this report.
11. The scope of this second ('follow-up') exercise is therefore to explore a range of possible sanctions beyond '*withdrawal of places*', but short of introducing a new criminal offence.

The follow-up review

12. Initial consideration was given to re-surveying all 152 LAs in England, but it was then decided just to re-issue the original questionnaire to the 29 LAs that did not respond earlier in order to form a complete picture across the country.
13. Analysing the data from all 152 LAs we are now able to say that:
 - 43.4% of LAs consider fraudulent/misleading applications is an issue in their area (compared with 46.3% of the original respondents);
 - 36.2% consider that this is increasing year on year (36.6% in the previous sample);
 - 72.3% report that they have in the past used the sanctions defined in paragraphs 1.50 and 1.51 of the Code to remove a place (73.2% in the previous sample); and
 - 60.5% (61% previously) consider the sanctions in the Code to be sufficient to deal with the problem.
14. In general the 29 new respondents provided very similar examples and raised similar issues to the previous cohort.
15. It is not my intention to provide the detail of the issues raised again, as it can be found in the 2009 report which is provided as an Annex to this report. The issues raised there, supplemented only by a few new examples, were used as an agenda for the meetings and correspondence outlined below.
16. Meetings took place again with the eight LAs consulted for the first report. These meetings were mainly with officers responsible for admissions, but also included LA elected members (including one Leader), Admission Forum chairs, and solicitors.
17. Meetings then took place with 19 additional LAs, again mainly with officers, but also including elected Members, Admission Forum chairs, headteachers and Diocesan Directors.
18. I met with three parent representative organisations, one of which suggested (and I accepted) posting a request for comment on their website, which elicited a number of responses which have fed into this report.
19. One researcher also allowed me to 'piggyback' on work being carried out on admissions involving parent 'focus groups', which amongst other things discussed fraudulent/misleading applications.
20. During the period between the publication of the first report (2 November 2009) and the writing of this second report, the issues have also been discussed at most meetings I have attended (including those

with my Adjudicator team, DCSF officials, and my own legal advisers) and I have considered press and other comment, particularly letters and other communications to me from parents.

Analysis

21. Responses show that there is a considerable hostility by most parents towards others who are seen to be, 'playing the system', particularly where this involves lying. Many parents do however accept that, provided rules are not actually broken, they cannot be blamed for seeking to maximise the chance of achieving the most desirable school place for their child.
22. A comment made by a number of parents was that *'if all schools were equally good, then there would be no need for any parent to use deception to gain a school place'* (an actual comment received). Although I understand the sentiment, I am not sure that this would necessarily change the situation in a significant way. For many reasons, not always just for the quality of education, some schools are more popular than others, and will always be sought after.
23. Those consulted thought that the issue could usefully be considered in four distinct phases:
 - i. up to the point of application;
 - ii. between application and offer;
 - iii. between offer and the start of the term;
 - iv. after the start of the term.
24. The view from most respondents was that prevention is better than cure, and most 'solutions' to deal with the issue of misleading applications should concentrate, if possible, at an early stage in the admissions process rather than later, when the child him or herself is clearly seen to be disadvantaged if the place is withdrawn.
25. It is of course only after an offer has been made (after phase ii above) that the sanctions in paragraphs 1.50 and 1.51 of the Code, allowing withdrawal of a place, can be used. Consequently, most of the points discussed in the meetings, and therefore in this section, relate to things that can be done before places are allocated or taken up.

Phase (i) – up to the point of application

26. Many LAs clearly state in their admission booklets what will happen if parents make an application that is found to be fraudulent. There should be a requirement in the Code for booklets and common application forms to have a clear statement to say that in signing the parent is making a truthful application, and clearly pointing out what can happen if it is not found to be so.

27. Although it may be obvious to most people that if a parent falsifies an application for a school place, he/she loses all the preferences on the form, as the whole application is invalid. The child then goes to the bottom of the placement lists, in effect as a 'late' applicant. This needs to be made clearer in documentation.
28. A media campaign to explain to parents that providing deceptive information for admissions is wrong, and has implications for other children and parents not getting places that are 'rightfully' theirs, was discussed in the original report. There is a great deal of support for such a campaign, which it is thought should be run nationally in the Autumn each year – a time when parents are considering applications to schools for the following year, and others have just had their children begin school and may have just become aware of other parents who have obtained places deceptively.
29. It is essential that the public realise that there are always 'losers' if a parent uses deceptive or misleading information to gain a school place – it is not a 'victimless' action. Many respondents appreciated the use of the word 'theft' being used in this context. The suggested media campaign should concentrate on this aspect.
30. It was thought by many that it should be made easier for the public to report parents that they believe to be acting fraudulently. Many authorities, but not all, place a 'whistle-blowing' telephone number in their admission booklets to make this easier.

Phase (ii) – between application and offer

31. I continue to be worried about the issue, which I raised in paragraph 10 of the first report, of some respondents, even from larger LAs, answering that they were not aware of, or had dealt with any fraudulent/misleading applications in their area in the past year.
32. There was a clear view expressed by some parents, particularly in the correspondence received following the first report, that *'insufficient care was taken at either county or individual school level to detect fraudulent applications and apply appropriate sanctions to perpetrators'* (an actual comment received).
33. In view of the wide variation between LAs with regard to the numbers of misleading applications that they find, and a suspicion that in some this may be because they are not being recognised, many of those consulted thought that the Code or legislation should place a duty on LAs both to search them out, and to follow up any reports of them.
34. One LA announces in its admissions booklet that it will routinely check a random 10% sample of applications in detail, and this was thought by others to be commendable practice.

35. There was a widespread view that individual schools (not just those that are their own admission authorities) should also seek out, follow up, and if necessary alert the LA to any potential fraudulent applications that come to their notice.
36. A concern was widely expressed by a large minority of admissions teams in LAs that they had been told by their lawyers that it was not possible to use Council Tax data to check addresses. The majority of LAs and my own legal advice would suggest that this is incorrect advice and the majority of LAs do already use it.
37. Much of the discussion with LAs related to a definition of 'main place of residence' and what 'proof' could be used to clarify this. LAs are confused about both these issues and would welcome some guidance from the Department. It was suggested, for example, that there is clear guidance on what documents should be used to check identity for the CRB, and a similar checklist could be employed for admissions, offering a selection of documents that could be asked for.
38. In some LAs, where suspicions are aroused that parents have given false information on application forms, letters are sent from the legal services departments asking them to sign again confirming that the information they provided on their form was truthful. Failure to respond to these letters quickly results in the offer being removed. If a parent provides a second false statement, this is very powerful if further action needs to be taken. There was considerable interest in this by other LAs who were keen to implement it more widely.
39. Where a 'whistle blowing' allegation is received, this could also be treated in a similar way.

Phase (iii) - between offer and the start of term

40. In cases where deception is proven, there were consistently strong views expressed that there should be a duty placed on LAs that places **must** be withdrawn.

Phase (iv) – after the start of term

41. A significant minority of LAs said that they do not currently withdraw places once children have begun school, as this was considered to be punishing the child for the actions of the parent. Most of those consulted accepted that, reluctantly, this may be the only way in which a parent may be dissuaded from submission of false information.
42. Many suggested that the current suggestion in the Code (para 1.51) of perhaps a term in the school as being the limit to withdrawal, should be removed from the paragraph. There should be encouragement to

remove places at any point if fraud is detected. Appeals panels remain as the safeguard for the child.

43. In view of the disruption for the child in such a circumstance, it was suggested that a letter could be sent to the parent notifying them of the intention to remove the place several weeks ahead, and to set up a fast-track appeal (possibly within two weeks) for them before whilst the child remained in the school. As this was likely to happen mainly in the autumn term it was considered likely that appeals panels could adhere to this timescale.
44. A major issue that was raised consistently, and explored in the previous report, is of parents exchanging houses and then moving back to their original property after a school place at a preferred school has been obtained. One respondent suggested that if parents subsequently move home within a year of gaining a place, the application should be re-examined automatically. This gained considerable support when shared more widely.

General issues

45. Allegations of fraud by another parent are often put forward at appeals hearings as reasons why a parent has not got into his/her chosen school. LAs will not always be aware of these allegations, particularly for other admission authority schools. It was thought to be essential that when this occurs, appeals panels alert the LA to the allegation so that it can be followed up. This may need to be included as an issue in the guidance for appeals panels.
46. Admissions Forum representatives consulted considered that there is a need for greater policing by Admissions Forums so that they can get a good picture of how fraudulent and misleading applications are being dealt with locally. They also suggested that they should include a section in their annual reports on their findings.
47. It was also considered important to be clear in the Code that any sanctions related to deceptive or misleading applications relate to in-year applications as well as at the main points of entry.
48. Although it had been dismissed in the previous report, there was still a large minority of respondents who supported criminal sanctions for parents who wilfully lied to gain a place for their child. This had strong support in the responses gathered from parents by one parent representative organisation. There was recognition that fines would not necessarily be appropriate, but the threats of community service and a criminal record were considered to be possible deterrents.
49. One final issue, not specifically linked to deceptive applications, and raised by several LAs, relates to which parent can apply for school places when they are possibly estranged, and do not agree on choices.

Some LAs are accepting two separate admission forms which, others think unfairly, give more preferences to these children. Although not widespread, there is a suspicion that some parents may now be using this as a ploy to extend their preferences. This needs clarification in the Code.

Conclusions

50. Parent representative groups that took part in this exercise were particularly concerned that I restated the point that although deceptive/misleading applications for school places are widespread, only a small proportion of the population engage in the process. The vast majority of parents would never consider lying to obtain a preferred school place for their child.
51. Having now received returns from every LA, between them they identify approximately 1400 cases that they dealt with last year. The data continues to suggest that there are at least two cases suspected for every one that is found and dealt with. The number of fraudulent applications therefore seems to be in excess of 4200 per year.
52. It is appreciated that many of the actions suggested in this report will result in implications for the child. There was widespread agreement from those consulted, including the majority of parents, that parents themselves who submit fraudulent and misleading applications must take responsibility for this issue themselves.
53. The major difficulty in all of this is that more aware parents will always be able to use any system more effectively. My task, and the task of the Code, it to try to ensure that the admissions system is as fair and equitable as possible for the majority, particularly those who have most difficulty navigating it.
54. I am grateful to the officers in all LAs who spent time completing the survey, and the many people who have given their time to discuss this issue with me over the past few months. I am particularly grateful to all the parents who have sent me letters and e-mails on this subject.
55. The exercise has already proved valuable, as many of the people involved in the meetings have reported returning to their LAs to continue the discussion and/or initiate some of the actions discussed.

Recommendations

56. Following the first report on 'Fraudulent and Misleading Applications' sent to the Secretary of State on 1 October 2009, he accepted the main recommendation, which has been welcomed by those consulted in this follow-up exercise, to:

- a. *Clarify, through the Code or otherwise, that a parent who obtains a school place by deception, but does not have the place removed due to the LA or appeals panel considering the best interests of the child, would not be able to gain priority over other applicants by using a 'sibling link' for subsequent children in future years.*

57. From this follow-up exercise, it is recommended that:

- b. **Recommendation 1** - *The Code should require LA Admissions booklets and Common Application Forms to have clear statements on them to say that in signing the parent is making a truthful application, and clearly pointing out what could happen if it is not found to be truthful (para 26);*
- c. **Recommendation 2** - *The Department should fund a media campaign, to be run in the Autumn each year, explaining to parents why providing misleading and fraudulent information for admissions is wrong and deprives other children (and parents) of those places (para 28);*
- d. **Recommendation 3** - *Admission authorities should be encouraged to publicise a 'whistle blowing' telephone number in their admissions booklets and elsewhere (para 30);*
- e. **Recommendation 4** - *The Code or legislation should place a duty on LAs to search out, and follow up any reports they receive of misleading or fraudulent applications (para 33);*
- f. **Recommendation 5** - *LAs should routinely check, as a minimum, a random 10% sample of applications, and alert parents to this in their admissions booklets (para 34);*
- g. **Recommendation 6** - *All schools should be encouraged to seek out, follow up, and alert the LA to any potential fraudulent applications that come to their notice (para 35);*
- h. **Recommendation 7** - *The Department should issue clear guidance to LAs on how to define key terms such as 'main place of residence', and provide advice on what documentation LAs can use to confirm this (para 37);*
- i. **Recommendation 8** - *LAs should consider follow-up letters from their legal teams asking for additional signed confirmation of accuracy of information where there is a suspicion that it is fraudulent (para 38);*
- j. **Recommendation 9** - *In cases where deception is proved, there should be a duty on LAs that places **must** be withdrawn (para 40);*

- k. **Recommendation 10** - The current suggestion of a 'limit' after which time places cannot be removed should be taken out of the Code. LAs should be encouraged to remove places at any time if fraud is detected (para 42);
- l. **Recommendation 11** - Where parents move their notified main place of residence within a year of their application for a school place, it should be re-examined automatically (para 44);
- m. **Recommendation 12** - Where allegations of fraud are made at admissions appeals, panels should notify the LA so that the allegation can be followed up (para 45);
- n. **Recommendation 13** - Admissions Forums should be encouraged to police fraudulent and misleading applications locally, and report on their numbers and how they have been dealt with annually (para 46);
- o. **Recommendation 14** - The Code should make it clear that any 'sanctions' related to deceptive or misleading applications relate to in-year applications as well as at the main points of entry (para 47);
- p. **Recommendation 15** - The Code should clarify how the application for a school place should be dealt with when the parents cannot agree and wish to submit two separate sets of school preferences (para 49).

Ian Craig
Chief Schools Adjudicator
 Office of the Schools Adjudicator
 Mowden Hall
 Staindrop Road
 Darlington, DL3 9BG

www.schoolsadjudicator.gov.uk

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ANNEX – Report to the Secretary of State for Children, Schools and Families on fraudulent or misleading applications for admission to schools. (Office of the Schools Adjudicator) 1 October 2009.