

Meeting:	Harrow Admissions Forum
Date:	19 July 2006
Subject:	Medical claims
Responsible Officer:	Geoff Wingrove
Contact Officer:	Madeleine Hitchens
Portfolio Holder:	Janet Mote
Key Decision:	No
Status:	Public

Section 1: Summary

For decision

To review the medical criterion for community primary and secondary schools, to make recommendations as appropriate and to agree a process for considering medical claims under any revised criterion.

Reason for report

A parent had made an application for Judicial Review on the basis that her appeal for a place in Reception was not allowed on medical grounds.

Benefits

Clarification of the medical criterion will mean that the authority is less vulnerable to challenge.

Cost of Proposals

None

Risks

Not undertaking a review could leave the authority vulnerable to challenge.

Implications if recommendations rejected

There will be uncertainty about processing applications on medical grounds.

Section 2: Report

Brief history

A parent was refused a place at her preferred school. No medical claim was made at the time of application. Subsequently, as part of an appeal, the parent provided information in support of a medical claim. However, the claim did not meet the current medical criterion, ie:

Medical reasons relevant to pupil

Children with special medical reasons for seeking a place at the chosen school. Such requests will only be considered for the school nearest the child's home. Applications made on medical grounds must be accompanied by supporting evidence from a Consultant at the time of application. This letter must provide information about the child's medical condition, the effects of this condition and why, in view of this, the child needs to attend the school nearest to home. In assessing these applications appropriate advice will be sought, for example, from the Community Health Service, the Psychology Service and headteachers.

Medical reasons relevant to parent(s)

Parent(s) with special medical reasons for seeking a place for their child at the school closest to the home address. Such applications will only be considered for the parent(s) with whom the child lives and must be accompanied by supporting evidence from a Consultant at the time of application. This letter must provide information about the parent's medical condition, the effects of this condition and why, in view of this, the child needs to attend the school nearest to the home address. In assessing these applications we will seek appropriate advice, for example, from the Community Health Service.

At the time of allocation the parent was not offered her first ranked school as this filled from pupils with a stronger claim under the admission rules. Subsequently, the parent supplied a letter from a Consultant about the child's medical condition. When the home to school measurement was checked the parent's preferred school was not the nearest one to the home address. The parent was informed that the claim did not meet the medical criterion. The parent decided to exercise her right of appeal

At the appeal hear, the Independent Appeal Panel considered all the information provided by the parent, both written and oral, but did not allow the appeal.

The parent has now made an application for Judicial Review on the grounds that:

“The admissions criteria by which places were allocated were framed interpreted and applied by Harrow Council and the Appeal Panel in such a way that (the parent’s) application for a place at (school name) was unsuccessful and (the parent’s) appeal against that decision was rejected by the Appeal Panel”.

The application for Judicial Review was made under the provisions of the Disability Discrimination Act 1995 and the Human Rights Act.

Options considered

Advice from Harrow Legal Services is that we should consider changing the current medical criterion as follows:

Such requests will **generally** only be considered for the school nearest the child's home.

Inserting the word generally gives flexibility to consider whether the school applied for is the most appropriate for the child. Because this change to the Admission Rules requires a level of interpretation not called for under the current criterion, it is proposed that a small group is established to consider medical claims, supported by a Consultant’s letter, for schools other than that closest to the child’s home address. The Admissions Forum is asked to consider appropriate representation for such a group.

Consultation

Any proposed change to the admissions rules will form part of the annual consultation on admission arrangements which will take place in Autumn 2006 / Spring 2007.

Financial Implications

There are no direct financial implications arising from this report.

Legal Implications

The present policy leaves the council open to challenge by way of Judicial Review, as the policy is clearly intended to prevent parents from improperly using medical grounds to secure admission to oversubscribed schools. Any policy that is overly rigid in its application has the potential for judicial review, as the Local Authority may be considered to have fettered its discretion to consider individual circumstances. By insertion of the word *generally*, admission officers and Independent Appeal Panels may consider whether the nearest school is the most appropriate for the needs of the child.

Equalities Impact

Harrow's oversubscription criteria have been developed in line with guidance in the School Admissions Code of Practice in order to be objective, clear, fair and compatible with admissions and equal opportunities legislation.

The proposed change responds to the needs of service users from Harrow's diverse communities.

Section 17 Crime and Disorder Act 1998 Considerations

N/A

Section 3: Supporting Information/ Background Documents

Background papers

Cabinet Report 14 April 2006 - Determination of Admission Arrangements
for the 2006/2007 academic year