



Determination –

Case reference:	ADA3752
Objector:	An individual
Admission authority:	Sale Grammar School, a single academy trust
Date of decision:	13 October 2021

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2022 determined by Sale Grammar School, a single academy trust for Sale Grammar School, Trafford.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 31 October 2021.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by an individual, (the objector), about the admission arrangements (the arrangements) for Sale Grammar School (the school), an academy school for pupils aged 11 to 18 for September 2022. The objection is to the school’s catchment area.
2. The local authority (LA) for the area in which the school is located is Trafford Council. The LA is a party to this objection. Other parties to the objection are the objector and the school.

Jurisdiction

3. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that “the admissions policy and arrangements for the school will be in accordance with admissions law, and the DfE Codes of Practice, as they apply to maintained schools”. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 30 January 2021. The objector has asked to have her identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

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

- a. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector’s form of objection dated 30 January 2021;
- d. the school’s response to the objection and the other matters I have raised;
- e. the LA’s response to the objection and the other matters I have raised;
- f. maps of the area identifying relevant schools, postcodes and local authority areas;

Background

6. Sale Grammar School is a selective secondary school for boys and girls aged 11 to 18 located in Sale, Cheshire. The school is a single academy. It is located within Trafford to the east of the M33 postcode area.

7. The school’s oversubscription criteria, in abbreviated form, are as follows:

1. Looked After Children and all previously Looked After Children. This category includes children who have been in state care outside of England and ceased to be in state care as a result of being adopted.

2. Up to 15 applicants who qualify for Pupil Premium. Places will be allocated in the following order.
 - I. Applicants who qualify for Pupil Premium residing in the priority admission area as described in category 3.
 - II. Applicants who qualify for Pupil Premium attending a Trafford state funded primary school whose permanent home address lies within the Trafford Local Authority but not within the priority admission area. Places in this category will be allocated by rank score order.
3. Applicants residing in the priority admission area as defined by postcodes M33, WA14, WA15, plus Trafford Authority residents within the M23 postcode. Places in this category will be allocated by rank score order.
4. Applicants from outside the priority admission area will be placed in rank order as determined by their scores in the selection tests.

Consideration of Case

The Objection

8. The objection is to the catchment area of the school, which is defined by postcodes. The catchment area (which the school refer to as a Priority Admission Area) is defined as those parts of the M23 postcode which fall within the area of Trafford Council and not the other parts of M23 which do not, whilst the whole of postcodes WA14 and WA15 are included whether or not within the area of Trafford Council. The objector contends that the exclusion of those parts of M23 which are not in Trafford is unreasonable and so the catchment area does not comply with the provisions of paragraph 1.14 of the Code.

9. The school inform me that, when it became an academy in 2011, it decided to keep a substantial amount of the admissions arrangements which had applied to its predecessor, an LA maintained school. This included the paragraph defining the catchment area. The LA have further explained the background. Originally the catchment area had been defined by a list of all the streets in Sale. In order to simplify this (presumably the list of streets was very long) the LA decided to replace this with a definition by reference to postcode. The LA explains the position thus:

“Postcodes are designated by the Royal Mail and, although they do not denote administrative boundaries, they do represent established reference points that can be instantly recognised by any individual, wherever they reside. However, it was the case that a very few M33 postcodes were actually located in the Manchester administrative area.

The M33 postcode area in Trafford contains 26,080 residential properties, according to Trafford’s Local Land and Property Gazetteer. Approximately 300 properties are located on the eastern side of the M33 postcode area, in the Manchester

administrative area (this cannot be reported definitively because the data is not held by Trafford).

The LA considered that the inclusion of these 300 properties would not adversely impact Sale residents on the western side of the catchment area, but their exclusion would have represented a deliberate contravention of the Greenwich Judgement for no justifiable reason.

Conversely, the M23 postcode area (also located on the eastern side of the M33 postcode area) contains more than 13,500 properties (again the exact number of Manchester addresses is not known by Trafford). Only 121 of these are located in Trafford according to Trafford's LLPG. Not to include these 121 Sale residencies in the Sale Grammar School catchment area, would mean that those residents who achieved the qualifying score, would not be given the historic priority for admission to the School that they previously had under the street list definition.

However, the inclusion of more than 13,000 additional properties in the M23 postcode area would have a significant impact on the allocation of places particularly for those living on the Sale West side in the M33 postcode.

Trafford's place planning procedures operate on a general pupil yield of 3% per year group; that is 3 pupils in each year group for every 100 properties.

On the basis of this yield, the Trafford M33 postcode area would be expected to provide 782 children in every year group, and the 121 M23 properties in Trafford would be expected to yield 3. However, not all 3 would be expected to be of grammar school ability. This would more likely result in less than 2 grammar school pupils in each year group. Conversely, the 13,000 Manchester properties, based on Trafford's pupil yield, would result in approximately 390 additional children. Even if the pass rate was as low as 30%, this may be expected to increase the number of catchment area children by 130.

Children resident in properties in Manchester with the M33 prefix regularly attend primary schools in Trafford. These properties yield, on average, 10 children in each year group. Again, not all 10 would be expected to be of grammar school ability. This would more likely yield 3 grammar school pupils in each year group. Excluding these children from the catchment area would have little impact on Sale residents but would add unnecessary complication to the simple M33 definition.

WA14 contains 13,688 properties in Trafford, according to Trafford's LLPG, and less than 1000 in Cheshire East.

WA15 contains 17,281 residential properties in Trafford, according to Trafford's LLPG. These are spread across 918 WA15 postcode units (a postcode unit designates an area with several addresses or a single major delivery point). Although the number of WA15 residential properties in Cheshire East and Manchester is not held by Trafford, the number of postcode units in those areas is far

less, with only 19 separate WA15 postcode units in Cheshire East and only 16 in Manchester.

Again, excluding these pupils would not disadvantage other Trafford pupils, but would further complicate the simple WA14 and WA15 definitions”.

10. The following tables show, for each year from 2018 to 2021, the number of applicants achieving the qualifying score of 334 or above from each postcode area and whether those applicants live within the Trafford area or outside it, together with the number from each area admitted to the school.

2018

Postcode	Number of applicants scoring 334 or above in the entrance test (tested 2017)	Admissions
M33	201	112
M23 within Trafford	1	0
M23 not within Trafford	14	3
WA14 within Trafford	116	19
WA14 not within Trafford	0	0
WA15 within Trafford	176	34
WA15 not within Trafford	1	0
Other Postcodes	443	24
Total	952	192

2019

Postcode	Number of applicants scoring 334 or above in the entrance test (tested 2018)	Admissions
M33	193	109
M23 within Trafford	2	0
M23 not within Trafford	26	0
WA14 within Trafford	112	28
WA14 not within Trafford	0	0
WA15 within Trafford	197	53
WA15 not within Trafford	1	0
Other Postcodes	400	2
Total	931	192

2020

Postcode	Total number of applicants scoring 334 or above in the entrance test (tested 2019)	Admissions
M33	191	95
M23 within Trafford	0	0
M23 not within Trafford	24	3
WA14 within Trafford	142	27
WA14 not within Trafford	1	
WA15 within Trafford	157	32
WA15 not within Trafford	0	
Other Postcodes	407	35
Total	921	192

2021

Postcode	Total number of applicants scoring 334 or above in the entrance test (tested 2020)	Admissions
M33	215	125
M23 within Trafford	2	1
M23 not within Trafford	12	0
WA14 within Trafford	125	16
WA14 not within Trafford	0	0
WA15 within Trafford	177	43
WA15 not within Trafford	1	0
Other postcodes	422	7
Total	954	192

11. I accept the LA's basic premise that a catchment area defined by postcode is easier to understand than one defined by a lengthy list of streets. I accept that all, or nearly all, people know their postcode and so residents of M33, WA14 and WA15 would only need this information to know that they lived within the priority area. Residents of M23 would also need to know whether they lived within the Trafford administrative area but again most people would know this as they would know the name of the authority providing local services. Of course, everyone, or almost everyone, also knows the name of the street they

live on but postcodes have the advantage that they also give an idea of the overall geographical area covered.

12. I also accept that a very small proportion of addresses in WA14 and WA15 fall outside Trafford and their inclusion would make little difference to the overall pattern of admissions. Conversely, only a very small proportion of M23 addresses lie within Trafford and their exclusion would appear unfair to that small number of Trafford residents. The inclusion of all M23 residents would have a very significant effect on the nature of the catchment area by extending it to a much wider area, well beyond the area historically served by the school.

13. The figures provided by the LA are, broadly, borne out by the admission data set out above. There are few or zero admissions in each year from WA14 and WA15 addresses which are not within the Trafford area. There are also few or zero admissions from M23 addresses within the Trafford area in each year, presumably as there are so few households in this area. I also note, with interest, that in each year the number of applicants living within the priority admission area and who also reached the qualifying score far exceeds the school's PAN. Nevertheless, this group did not take up all the places remaining after admission of applicants with a higher priority (looked after and previously looked after children and, from 2021, a number of children eligible for pupil premium). Presumably those who were not admitted to the school gained places at other schools for which their parents had expressed a higher preference or went on to other forms of education such as home education or independent schools. Consequently, in each year some applicants from outside the priority admission area were admitted, including, in all but one year, some from parts of M23 not within Trafford.

14. The objector makes the point that residents of WA14 and WA15 whose addresses are outside Trafford (a relatively less disadvantaged area, well served with grammar schools and distant from the school) are included in the priority admission area whereas residents of M23 whose addresses are outside Trafford (a disadvantaged area closer to the school) are excluded. On the face of it I agree that this appears discriminatory. However, I accept the rationale given by the LA and the school. Having decided to define the catchment area by postcode the postcodes used and the exclusion of parts of M23 is a reasonable way to approach this. In summary, it seems to me that the LA (and later the school) chose to define the catchment area by reference to postcodes and it is this that has led, understandably, to the perception of unreasonable discrimination. If the same area had been defined by a line on a map the result, in terms of admissions to the school, would be the same, but the perception of unreasonable discrimination, based on part but not all of M23 being included, would be less likely to arise.

15. I find that the school's catchment area is not unreasonable and that it is compliant with the provisions of paragraph 1.14 of the Code. Consequently, the objection is not upheld.

Other Matters

Feeder Schools

16. The provision in criterion 2.11 states “Applicants who qualify for Pupil Premium attending a Trafford state funded primary school”. As those schools are not named, this may not comply with paragraph 1.9 b) of the Code:

“1.9 It is for admission authorities to formulate their admission arrangements, but they **must not**: ...

b) take into account any previous schools attended, unless it is a named feeder school”

17. I note that the school have offered to add a list of Trafford state funded primary schools to their admission arrangements. This will satisfy the requirements to name the schools. Consequently, I make no formal finding on this point.

Home Address

18. **Shared residence.** The second paragraph under the heading “Home Address” reads: “In the case of parents/carers who are separated and where child-care arrangements are shared between two addresses in the priority admission area, the average of the distances of the two addresses from the school will be used for the purposes of determining priority for admission. Where one of the addresses is outside the priority admission area, the applicant will be regarded as living outside this area and the average of the distances of the two addresses from the school will be used for the purposes of determining priority”.

19. I pointed out to the school that the effect of this provision appears to be that some children who live most of the time near to the school but some of the time elsewhere are deemed to live further away and/or outside the priority area. To take an extreme example, a child who lives with her father next door to the school and spends one Saturday night in two with her mother in Brighton under a shared child-care arrangement, would be deemed to live outside the priority area and about 125 miles away. This does not comply with the requirement that admission arrangements are fair and clear (paragraph 14 of the Code) and that oversubscription criteria are reasonable (paragraph 1.8 of the Code). For those reasons I find that the provision is not fair and consequently does not comply with the provisions of paragraph 14 of the Code.

20. The school point out that this provision was retained from the LA’s admission arrangements when the school became an academy in 2011. The school have offered to amend their arrangements so that this provision is only applied where, after investigation, it is established that the child lives at both residences equally. The wording proposed is as follows:

“In the case of parents who are separated, the application will also be considered from the address where the child normally and permanently lives, even though the child may regularly spend some time at another address. Where it is claimed that the residency is

shared equally between two addresses, the applicant will be required to submit documentary evidence to support the claim.

If it is determined that the child does live at both residences equally, the following criteria will be applied:

- Where the child lives equally at two residences in the catchment area, the child will be considered as living in the catchment area.
- Where the child lives equally at two residences and one is outside the catchment area, the child will be considered as living outside the catchment area.
- In the event that there are more applications than places available, within either category, the average of the distances of the two residences will be used for the purposes of determining the level of priority within each category”.

21. It is not within my remit to determine whether or not a proposed variation to admission arrangements is compliant with the Code and admissions law. However, the LA introduced the same or similar wording in its admission arrangements for entry in 2022 to schools for which it is the admission authority. That wording is the subject of a separate determination in REF3883 Trafford Council which is published on the Office of the Schools Adjudicator website, and I refer the school to that determination for a more detailed analysis of wording very similar to its proposed wording.

22. **Tenancy agreements.** The relevant part of the admission arrangements reads:

“Applicants who move into the priority admission area (as defined by criteria 3 of the over subscription criteria), after the date of registration, who submit an on time application to their home Local Authority including Sale Grammar School as a preference will be given consideration from the address given on the original registration made to the school until after the first round of offers. Thereafter, the new address will only be considered if and when the following evidence and legal documentation in relation to the change of residency have been supplied to the School.

- evidence and legal documentation to the effect they have purchased or exchanged contracts on a property, and proof of disposal (or effective disposal) of the previous home.
- for leasing agreements, a legal contract for a minimum of 24 months without a break clause is required along with proof of disposal (or effective disposal) of the previous home, and
- documentation to prove the applicant and their parents/carers became resident at the new home.”

23. The requirement relating to leasing agreements as proof of residency; “a legal contract for a minimum of 24 months without a break clause”, may not comply with the requirement of paragraph 14 of the Code that “the criteria used to decide the allocation of school places are fair, clear and objective” and/or paragraph 1.8 of the Code, the relevant part of which reads “Admission authorities **must** ensure that their arrangements will not

disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child”.

24. The school has proposed new wording which would address the issue of the length of tenancy agreement required, and I am satisfied that it is not necessary for me to make formal findings regarding the length of tenancy agreement required. Again, it is outside my remit to advise on proposed wording. However, I note that in the proposed wording there are a number of references to documentation which may be required at an appeal and observe that the admission arrangements should provide a process for determining how a change of address is to be treated **prior** to a decision being made as to whether or not to offer a place. An appeal can only follow at a later stage if an offer is refused.

Determination

25. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2022 determined by Sale Grammar School, a single academy trust for Sale Grammar School, Trafford.

26. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

27. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination [unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 31 October 2021.

Dated: 13 October 2021

Signed:

Schools Adjudicator: Tom Brooke