

DETERMINATION

Case reference: ADA/002264

Objector: A parent

Admission Authority: The governing body of the Academy Trust for Dame Alice Owen's School, Hertfordshire

Date of decision: 1 August 2012

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 determined by the governing body of the Academy Trust for Dame Alice Owen's School for admissions in September 2013.

On the basis of the evidence available to me, I am satisfied that the oversubscription criteria 4 and 5 relating to the Local Priority Areas which qualify children to take the Entrance Examination and/or Musical Aptitude tests are permitted by the Code.

I have also considered the arrangements in accordance with section 88I (5) of the Act. There are other aspects which appear not comply with the School Admissions Code in the ways set out in paragraph 16 of this adjudication.

By virtue of section 88K (2) of the Act the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to make the remaining revisions to its admission arrangements as quickly as possible.

The referral

1. Under section 88H (2) of the Schools Standards and Framework Act 1998 (the Act), an objection has been referred to the Adjudicator by a parent (the objector) about the 2013 admission arrangements (the arrangements) for Dame Alice Owen's School (the School). The objection relates to oversubscription criteria 4 and 5 and the requirement that for a child to take the Entrance Examination and/or Musical Aptitude tests, s/he must either have a permanent home address within one of the Local Priority Areas for the School or be educated within the London Borough of Islington.

Jurisdiction

2. The terms of the Academy agreement between the Dame Alice Owen's School (the Academy Trust) and the Secretary of State for Education require that the admissions policy and arrangements for the School are in accordance with admissions law as it applies to maintained schools. The arrangements

were determined by the governing body of the Academy Trust (the governing body) which is the admission authority.

3. The objector submitted an objection to these determined arrangements on 23 May 2012. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction.

Procedure

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

The documents I have considered in reaching my decision include:

- a. the objector's form of objection dated 23 May 2012, maps and further email correspondence;
- b. the School's responses to the objection dated 12 and 26 June 2012, further correspondence and supporting documents;
- c. the responses to the objection by Hertfordshire County Council (the Council) dated 19 and 21 June and 2 July 2012, including the local secondary map and supporting documents;
- d. the Council's composite prospectus for parents seeking admission to schools in the area for September 2012, as downloaded from the Council's website;
- e. a guide to secondary education in Barnet 2012, as downloaded from the Council's website;
- f. the admissions policy and test application form as downloaded from the School's website on 11 and 18 July 2012;
- g. the minutes of a meeting of the governing body dated 20 March 2012;
- h. the funding agreement;
- i. the revised web page statement for sixth form admissions as downloaded on 19 July 2012; and
- k. the determinations of 1999, 2003, 2004, and 2008.

The Objection

5. The objection relates to oversubscription criteria 4 and 5 and the requirement that for a child to take the Entrance Examination and/or Musical Aptitude tests, s/he must either have a permanent home address within one of the Local Priority Areas for the School or be educated within the London Borough of Islington. The objector asserts that the use of postcodes to define the qualifying area for entrance exams contravenes paragraph 1.8 of the

Code as there is no transparency as to why close areas are excluded and distant areas included, leading to discrimination against children who live in some areas relatively close to the School.

Other Matters

6. In reviewing the 2013 arrangements I drew the attention of the School to other aspects of the arrangements that appeared to contravene the requirement of the Code at paragraph 1.8 that oversubscription criteria must be reasonable, clear, objective, and procedurally fair.

Background

7. The School opened as a state funded Academy for pupils aged 11 to 19 years on 1 April 2011, replacing Dame Alice Owen’s School, a Voluntary Aided secondary school originally founded in Islington in 1613. The Academy is an all ability inclusive school with pre-existing partially selective admissions for children demonstrating musical aptitude or academic ability, permitted by section 100 of the Act.

Consideration of Factors

8. The arrangements clearly specify for parents that their child’s permanent home address has to be within one of the Local Priority Areas for the School or that their child has to be educated within the London Borough of Islington to be entered for the selective tests or musical aptitude tests. The Local Priority Areas are stated as follows:

Parishes and towns within Hertfordshire:

Aldenham	Essendon	Northaw & Cuffley
Bayford	Hatfield	Potters Bar
Brickendon Liberty	Little Berkhamsted	Ridge
Colney Heath	London Colney	Shenley
Elstree & Borehamwood	North Mymms	Welwyn Garden City

London postcodes within the London Boroughs of Barnet and Enfield

EN2 sectors 7, 8	N11 sectors 1, 3	N14 all sectors
EN4 all sectors	N12 all sectors	N20 all sectors
EN5 all sectors	N13 sectors 4, 5	N21 all sectors

Within Islington

Children who have their permanent home address in the London Borough of Islington or are being educated in that Borough.

9. At least 20 students from Islington are admitted to the School every year, reflecting a long-standing agreement between the former local authority, ILEA, and Hertfordshire County Council when the School relocated from Islington to Potters Bar in the 1970s. The School reports that it works closely with Islington Council to promote the School and its opportunities for the most disadvantaged children in the borough. While the Code does not give a

definitive list of acceptable oversubscription criteria, paragraph 1.10 does make clear that it is for admission authorities to decide which criteria would be most suitable for the school according to the local circumstances. It is my opinion that the admission of children from Islington, in accordance with the School's charitable foundation, is justified by paragraph 1.10 of the Code.

10. The Code at paragraph 1.14 requires catchment areas to be designed so that they are reasonable and clearly defined. In addition to the Islington provision, the catchment area includes Local Priority Areas of identified parishes and towns within Hertfordshire, and specified postcodes within the London boroughs of Enfield and Barnet. The Council confirms that the School is not alone in combining partial selection with a priority area defined by postcode areas, and that a number of schools in Hertfordshire have similar arrangements which include postal districts outside the county. The Council also confirms that the School's admission arrangements have remained fundamentally unchanged for a number of years and appear to be well understood by the relevant communities, and that the satisfaction rate in this area is higher than the county average with 96.12 per cent of applicants obtaining one of their three preferences.

11. The School states that the Local Priority Areas were carefully allocated as a result of the availability of efficient transport routes and the availability of other schools servicing other localities. The School confirmed that utilising straight line distance proximity was extensively considered, but concluded that this would not be fairer than the existing criteria as it would not reflect the circumstances local to the School, particularly, the local train and bus routes. School records show that the current bus routes utilised by students have certainly existed throughout the majority of the 22 years of the School's current criteria. The present train route from Islington to Potters Bar predates the School's move in 1974, and this facility was a key reason why Potters Bar was chosen for the new site for the School. Apart from Islington for the reasons explained above in paragraph 9, the School states that all the Local Priority Areas are geographically local to the School in at least part of the postcode, and the postcodes were determined to take into account neighbouring non-selective schools which could be prejudiced by drawing higher ability students away from them. The use of postcodes in defining a catchment area is objective, though it may not feel fair for families who do not live in those postcodes.

12. The objector argues that a system based on distance cut-off criteria would be much fairer as the priority areas identified are not necessarily "local", so that children who live in some areas which are relatively close to the school are discriminated against, due to the way post-code boundaries have been historically allocated. The objector's home address is not within the postcodes defined for the priority areas but is only some 3.8 miles from the School as the crow flies or 5.3 miles by road transport; by comparison, some of the priority areas are much further from the School. However, the Council stated that it would be very concerned about any possibility or proposal to amend the School's priority area in terms of pure distance. Due to the School's historic admission arrangements, combining both selection and named postcode areas, over 50 per cent of children attending the School already live outside Hertfordshire. Given the School's location on

Hertfordshire's London border, and the high concentration of pupils living in neighbouring London Boroughs, a shift in the Schools' priority area towards distance could disadvantage many Hertfordshire families, and there are already a number of communities within the county where children cannot access their nearest school because of oversubscription.

13. The objector also notes that regarding the requirements for testing, children from Islington can either be resident OR attend school in the borough. The objector's child attends a primary school in a local priority area but is prevented from applying for either the entrance or musical aptitude tests because applicants must be resident in, and not just attend school within the local priority area. The objector contests that to be fair, if residence or schooling is accepted in Islington, it should also be acceptable in the priority areas. However, changing the qualification of testing to include schooling as an alternative to residence in the priority areas for such complex arrangements is likely to impact significantly on the balance of admissions.

14. The purpose of the Code, confirmed at paragraph 12, is to that all school places for maintained schools and Academies are allocated and offered in an open and fair way. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated, and also be able to ascertain whether they reside in or outside the defined catchment. However, for popular schools, even when the home address is within the catchment area, this cannot guarantee the offer of a place as schools must prioritise according to their oversubscription criteria, so some children will be offered a place, and others will be refused.

15. Under criterion 8, parents who live outside the catchment may also express a preference for the School, in compliance with paragraph 1.14 of the Code. However, as this is the lowest criterion, the School advises in the FAQ section on its website, that as application numbers are so high, it is unlikely that the application would be successful. The objector asserts that such advice actively discourages parents from applying, but arguably, this information would help parents to assess whether their child would have a reasonable likelihood of gaining a place at this oversubscribed school.

16. As it appeared to me that there were other aspects of the admission arrangements that appeared not to comply with the requirements relating to admission arrangements, I used my powers under s88I of the Act to review the arrangements as a whole for full compliance with the Code. I therefore raised with the School several points which appeared to me to contravene the Code, as these points could be amended immediately by the School as a permitted variation under paragraph 3.6 of the Code. I offered the School the opportunity to make the amendments to the arrangements to comply with the Code, and agreed to note their progress in my determination. I raised the following points:

- a. It was not clear in oversubscription criterion 3 what was meant by a 'children who have a sibling who... has attended, the School, as the meaning of "has attended" had not been defined and was potentially very broad. The School has now amended criterion 3 to be:

‘Children with a sibling who is at the School or who have a sibling who is a former pupil of the School, and for whom the School has a record as held on the School's management system’;

- b. On the School's website, within the postage information of the Admissions section, the request for a voluntary contribution of three first class stamps to be used for sending out test arrangement details and results to applicants is contrary to the Code at paragraph 1.9 (n).

The School has confirmed that the Trust accepts that this process is now outside the Admissions Code, and will be removed from the website;

- c. With respect to 6th form admissions, some of the conditions for entry on the School's website were not the same as the requirements published in the 2013-14 arrangements. The School has since amended its website accordingly; and
- d. The arrangements were not clear about the published admission number (PAN) for sixth form admissions, as required by paragraph 1.2 of the Code. The School confirmed the arrangements would be amended to clarify the PAN for the sixth form would be 30.

Conclusion

17. On the basis of the evidence available to me, I am satisfied that the qualification to take the Entrance Examination and/or Musical Aptitude tests, as described in oversubscription criteria 4 and 5, is permitted by the Code.

18. In addition, although the arrangements are complex, which is not unusual for such a heavily oversubscribed school, the use of postcodes to define the local priority areas in Enfield and Barnet is clear, transparent and relatively well understood within the community.

19. The other aspects which appeared not comply with the Code are set out in paragraph 16 of this adjudication, and the School has agreed to revise the admission arrangements accordingly. The Code requires an admission authority to make revisions to its admission arrangements as quickly as possible in order to comply with the Code.

Determination

20. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of the Academy Trust for Dame Alice Owen's School for admissions in September 2013.

21. On the basis of the evidence available to me, I am satisfied that the oversubscription criteria 4 and 5 relating to the Local Priority Areas which qualify children to take the Entrance Examination and/or Musical Aptitude tests are permitted by the Code.

22. I have also considered the arrangements in accordance with section 88I (5) of the Act. There are other aspects which appear not to comply with the School Admissions Code in the ways set out in paragraph 16 of this adjudication.

23. By virtue of section 88K (2) of the Act the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to make the remaining revisions to its admission arrangements as quickly as possible.

Dated: 1 August 2012

Signed:

Schools Adjudicator Cecilia Galloway