



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3364

Objector: A parent

Admission Authority: White Hill Schools Trust for Chesham Grammar School, Buckinghamshire

Date of decision: 15 May 2018

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by White Hill Schools Trust for Chesham Grammar School, Buckinghamshire.

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.

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 a parent about the admission arrangements for September 2019 (the arrangements) for Chesham Grammar School (the school), a selective academy for girls and boys aged 11 to 18. The objection is that the catchment area for the school is unreasonable, and operates to cause an unfairness to boys living within a specified area.
2. The local authority for the area in which the school is located is Buckinghamshire (the LA). The LA is a party to this objection. Other parties to the objection are the objector and the White Hill Schools Trust (the trust) which is the admission authority for 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 academy school are in accordance with

admissions law as it applies to maintained schools. These arrangements were determined on 31 January 2018 by the trust on that basis.

4. The objector submitted an objection to these determined arrangements on 13 March 2018. The objector has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) by providing details of his/her name and address to me. The objector has asked to have his/her identity kept from the other parties on the grounds that he/she is by a parent, carer or other person with parental responsibility for a child who will be the right age to be eligible for a place at the school in September 2019. This request has been granted in accordance with OSA (Office of the Schools Adjudicator) procedures. 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.

Procedure

5. In considering this matter, I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 13 March 2018, documents attached to that form and subsequent emails;
 - b. the admission authority's response to the objection and supporting documents;
 - c. the comments of the local authority on the objection and supporting documents;
 - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2019;
 - e. a map of the area identifying relevant schools;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the meeting at which governing body of the school determined the arrangements; and
 - h. a copy of the determined arrangements.

The Objection

7. The objector's view is that "*Chesham's catchment area is not reasonable when considered in relation to that of the neighbouring school of Dr Challoner's Grammar School for the admission of boys*". The objector cites paragraph 1.14 of the Code as the basis for the

objection. This states that “*Catchment areas must be designed to that they are reasonable and clearly defined.*” Other paragraphs of the Code relevant to this objection are paragraphs 14, 1.1 and 1.8.

8. Paragraph 14 of the Code states: “*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*”
9. Paragraph 1.1 of the Code states: “*Admission authorities... **must** act in accordance with this Code, the School Admissions Appeals Code, other laws relating to admissions, and relevant human rights and equalities legislation.*”
10. Paragraph 1.8 states: “*Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group*”.

Background

11. The school is a co-educational selective school, rated by Ofsted as outstanding in March 2014. It became an academy on 1 August 2011. It is one of 13 selective grammar schools in Buckinghamshire. Each of these schools is an academy with its own admission authority. To be considered for places at any of the grammar schools, applicants must achieve a standardised score of at least 121 in the selection tests which are common to all the schools or be deemed qualified by a Selection Review Panel. If any of the 13 grammar schools are oversubscribed with applicants who have met the required standard, the oversubscription criteria specific to that school are applied in order to decide which children are offered places. These criteria are not based on ability but on matters such as the presence of a sibling at the school, residence in the school’s catchment area or distance from the school.
12. The school has a published admission number (PAN) of 180. The oversubscription criteria can be summarised as:
 1. Looked after and previously looked after children.
 2. Children living in the catchment area who qualify for free school meals.
 3. Siblings of children at the school.
 4. Children living in the catchment area.
 5. Children with exceptional social or medical needs.
 6. Children in distance order from the school.

13. Where the school can take some, but not all, children who meet one of the above criteria, priority is determined by applying subsequent criteria. All of the county of Buckinghamshire falls within the catchment area of one or more grammar schools. However, living in some areas gives priority for only one grammar school, whereas living in other areas gives priority for two or more. The area of the county under consideration is area 7. For boys living in the area in question, priority is only given for one grammar school – Dr Challoner’s.

Consideration of Case

Arguments from the objector

14. The objector argues that: *“the school’s catchment area is not reasonable when considered in relation to that of the neighbouring school of Dr Challoner’s Grammar School for the admission of boys”*.
15. This is said to be an issue affecting boys living within a narrow strip of land running north-west from Chalfont St Peter where the catchment areas for Chesham and Dr Challoner’s schools do not overlap. The objector states that this issue was highlighted as a potential unfairness in a determination by the adjudicator in relation to Dr Challoner’s Grammar School’s admission arrangements for September 2018 (ADA3296 of 2017). The objector refers to paragraph 66 of the determination, which states: *“Because, as shown on the map provided by the local authority, the grammar school catchment areas overlap, a boy living in almost all of the school’s [Dr Challoner’s] catchment area who had not been resident since 1 April 2017, would have catchment area priority for one of the other grammar schools. The exception is a small rural area approximately midway between Amersham and Beaconsfield running north-west from Chalfont St. Peter. From aerial photographs, this area appears to be sparsely populated and the local authority has told me that consideration is being given to including this area in the catchment area of another grammar school”*.
16. The objector also refers to paragraph 68 of determination ADA3296, which states: *“the amelioration of the potential unfairness rests in the admission arrangements of other schools. My jurisdiction is for September 2018 and the arrangements of those other schools have been determined.”* It is the objector’s view that the reference to “other schools” relates to Chesham Grammar School amongst others. The objector refers to a letter from the LA to the OSA obtained under an FOI request which states that *“there are discussions ongoing with regard to whether that area should also be part of CGS [Chesham Grammar School] catchment”*. However, the area was not included within the school’s catchment area in the 2018 admission arrangements or the 2019 arrangements.
17. The objector claims that: *“the effect of the catchment boundary for [Chesham Grammar School] is such that there remains one area of land which falls into catchment for only one boys’ grammar school (Dr Challoner’s). In contrast, Boys in all areas around the southern tip of*

area 7 (the furthest part of area 7 from the school by distance) have catchment priority for at least two grammar schools which accept boys [areas 5 and 6] (and in some cases four grammar schools [area 11])”.

18. It is further claimed that *“In the 2018 admissions round, this catchment design created tangible unfairness such that boys living within the southern tip of area 7, who met the grammar school standard in the selection test, have not been offered a place at any grammar school. This is the case for a boy applying to their one catchment priority grammar (Dr Challoner’s) and to the other three grammar schools whose catchments adjoin this area of the county. The situation arises because Dr Challoner’s only allocated to a distance of 5.548 miles within catchment in 2018, leaving an area in Chalfont St Peter without the potential for any offers at Dr Challoner’s and, because of the order in which oversubscription of the other schools are applied, without the potential for an offer for the neighbouring grammar schools ... In the specific case of Chesham Grammar School, offers were made to all in catchment area which includes an area several miles further south than the area in question. Chesham went on to allocate out of area on distance (including 66 out-of-county offers) but the distance (5.733 miles) is such that it does not reach the south of area 7”.* The objector illustrates the unfairness of how the catchment design works in practice by setting out an example hypothetical case based on a postcode in Area 7.
19. It is the objector’s view that, from the perspective of boys’ admissions there seems no reasonable or logical reason why the Chesham catchment narrows to exclude one particular area (which is similarly excluded from the other neighbouring grammar catchments (apart from Dr Challoner’s Grammar that is)). The objector also considers that it is clear from the local authority letter to the OSA, and further analysis of the neighbouring girls’ grammar school catchments, *“that the issue arises from the different girls’ school catchment area pattern. Because Chesham Grammar School is co-educational, girls in area 7 have catchment priority for two girls’ grammar schools (Beaconsfield High School and Dr Challoner’s High School), so the unfairness is specific to boys”.*
20. The objector accepts that there are other areas in the county of Buckinghamshire where boys have access to only one catchment grammar school (areas 1, 4, 8 and 12). However, his/her view based on 2018 data is that any boy selecting their catchment school within these areas would be offered a place (1, 8 and 12 by catchment, 4 by catchment to distance) as places at these schools are less in demand.
21. The objector argues that, given the possibility that the 2018 pattern for boys’ admissions could easily recur in 2019, Chesham Grammar School’s admissions arrangements should be changed *“so as to ameliorate this unfairness affecting boys who currently only have catchment priority for Dr Challoner’s”.*

22. The objector also considered whether any other Buckinghamshire Grammar schools were accessible to boys living in area in question. The objector made the point in an email dated 11 April 2018 that Burnham Grammar School is not a realistic preference for applicants living in Chalfont St Peter. Whilst there is a good public transport service as well as school bus services between Chalfont St Peter and both Amersham where Dr Challoner's is located and Chesham, there are neither from Chalfont St Peter to Burnham. The objector says that the closest school bus stop for Burnham is more than a four mile drive from Chalfont St Peter, and there are no direct public transport links. I did check this on Google Maps, and it certainly would seem to be a difficult journey by public transport involving a combination of two/three buses, or two buses and a train. Finally, the objector states that Chalfont St Peter is also part of a wider Chilterns community (currently served by the Chiltern District Council and the electoral district of Chesham and Amersham); and residents of Chalfont St Peter feel part of this community. Due to the design of neighbouring catchments, the majority of the local friendship groups of boys in area 7 will attend schools within this community.

The response from the admission authority

23. In the response to the objection from the school which was sent to the OSA on 5 April 2018, the school's head teacher and the chair of the trust acknowledged that the school's catchment area does not include the area referred to by the objector.
24. The trust, with the support of the LA, had consulted in December 2016 on extending the catchment area and, the catchment area was extended for admissions to the school in September 2018. Consideration had been given, during the consultation to process, to adding the area around Chalfont St Peter, however this was rejected as there was "*a reluctance to encroach on the catchment areas of other grammar schools*".
25. The school is aware that there are some boys who live in the area in question who have qualified for a grammar school place by virtue of their performance in the tests, but who have not been offered a grammar school place. This was not expected, and, so the school maintains, is not something that had happened before September 2018. The school has been discussing possible resolutions with the LA, and says it is keen to do all it can to play its part in ensuring that children living in Buckinghamshire who qualify for a grammar school place have a realistic chance of being offered one.
26. The school accepts the objector's argument that the problem could recur in relation to future admissions, and would be willing to accept a change to the admission arrangements for September 2019, should I determine that this is necessary in order to give boys in the relevant area a choice of more than one grammar school. This had been discussed with the LA, who had suggested making an application for an in-year variation. The trust had agreed to this at a meeting on 28

March 2018.

The response from the LA

27. The LA's response was received on 11 April 2018. In summary, what it says is that there were 24 boys resident in the catchment area of Dr Challoner's Grammar School who could not be offered a place there in September 2018. Some of these 24 could be offered alternative selective school places, whilst others could not. In the LA's view, this was not a clearly predictable situation. *"Each year the combined effects of overall cohort size both in Buckinghamshire and from outside the county, those moving into the area, which children sit the test, what their scores are, whether they are boys or girls, which children are successful at selection review, what their preferences are, where they are on each admission rules order list including out county school preferences, whether they have a sibling already at the school, whether they are in the catchment of their preferred schools and what their home to school distance is - these all combine and the full effect of the interactions can only be identified once the allocation process is completed"*.
28. According to the LA, there had been a significant increase in first preferences for Dr Challoner's Grammar School and a decrease in first preferences for Chesham Grammar School from within the shared catchment area. The LA considers that this effectively *"reduced the size of the Dr Challoner's Grammar School catchment area whilst increasing the size of the Chesham Grammar School catchment, resulting in Chesham admitting more children from out of county"*.
29. When the situation became clear, the LA undertook discussions with Dr Challoner's Grammar School and, as a result, nine places were offered above the published admission number. The decision for it to be nine places was because on average nine applicants had declined offers in recent years. Unfortunately, even with this number of extra offers made, it was still not possible to offer some boys a place at Dr Challoner's Grammar School in the first round. There remain four boys within the area 7 catchment who have qualified for a grammar school place but not been allocated one.
30. The LA suggested that it had taken a number of steps during the application process to assist parents to express their preferences in a way that would best guarantee that they would be successful in obtaining a grammar school place. The LA's view is that *"The council cannot be held responsible for the individual allocation decisions made in each case. The council, as the local authority, manages the complex admissions process and has done this accurately and in line with the published scheme and the individually set admission arrangements for each school. At the point that the admission rules are determined there is no way of accurately predicting how in reality those will interact to produce good or bad outcomes for individual pupils"*.

31. The LA's letter states: *"The council has the overall school place planning responsibility within an area but does not wholly control this. Schools that are their own admission authorities (i.e. all the grammar schools) are able to set their own admission numbers, catchment areas and proposed order of admission rules to be included. We do not accept that the council has failed in its responsibilities when setting out catchment areas, the Admissions Code says that if catchment areas are used they have to be reasonable and clearly defined and the council has been in discussions with Chesham Grammar School both before and after their 2018 catchment was set. Once this year's situation emerged, discussions have been held between the authority and the school with a view to how we might achieve an adjustment to the 2019 catchment area to include Area 7. Unfortunately, with admissions processes none of these changes can be made retrospectively so there is no way to adjust the Chesham Grammar School catchment area for 2018"*.
32. The letter continues: *"There are generally sufficient grammar school places to accommodate county residents, but each year there are many factors that may influence the detailed patterns of school place offers (e.g. changes in parental preference (with a mix of single-sex and co-educational schools), population migration, 11+ qualification rates/review qualifiers, independent sector take up etc.). BCC [Buckinghamshire County Council] acknowledges that Grammar schools operate with extensive shared catchment areas as unlike upper schools they tend to be located in the larger towns (e.g. Buckingham, Aylesbury, High Wycombe and Chesham/Amersham) grammar qualified children living in the rural parts of the county may be disadvantaged based on the distance to school oversubscription criteria (although this is considered within the admissions code as a reasonable means for prioritising preferences)".* If I have understood this correctly, the LA appears here to be suggesting that the catchment areas of each of the grammar schools across the county operate in a reasonable way, so it is not the case that the catchment area for any individual school is unreasonable. Nevertheless, the overall effect of the way that the catchment areas for different schools operate, and the unpredictability of the applications process mean that there are some applicants who are disadvantaged. However, as the LA says, because each of the Buckingham grammar schools determine their own admission arrangements, there is no person or body in control of the overall operation of the arrangements across the county.
33. The LA says that it is working with schools to agree an alternative grammar school catchment choice for families living in the Chalfont St Peter area and other areas of Buckinghamshire which are located a significant distance away from any grammar school. Its aim will be to ensure as far as possible that all areas have shared catchment areas so that the risks of children having to travel a disproportionate distance to their next nearest grammar school with a place, or being left without a grammar school place, is reduced. The LA's view is that *"Shared catchment areas creates the greatest flexibility"* and it will *"encourage*

parents to include their nearest/catchment grammar schools as doing this increases the likelihood of securing a grammar school place”.

34. More specifically to this objection, the LA confirms that it has been working with the school to reduce the potential for this situation happening again, and to provide parents living in Chalfont St Peter with an alternative grammar school catchment choice. The LA confirms that the school, with the support of the LA, is intending to submit an in-year variation to change the catchment area to include the Chalfont St Peter area for September 2019, This would be on the basis that there has been a major change in circumstances in particular an unexpected change in parental preference/influx of pupils into the area which necessitates a change in catchment.
35. Consideration had been given by the school to the inclusion of Area 7 within the school’s catchment area because it includes Chalfont St Peter which you would have to drive through when travelling from Gerrard’s Cross or Denham to Chesham. The LA supported consideration of this proposal being included for these reasons; however, the school wished to delay any further changes until September 2020. The school has obviously now changed its position.
36. The LA also intends to *“review all sole grammar catchment areas with schools for September 2020 to reduce the potential need for children to travel a disproportionate distance to their next nearest grammar school with a place should their nearest one be oversubscribed (although due to the rural nature of Buckinghamshire and the location of the grammar schools within the larger urban areas children will naturally have to travel greater distances)”.*
37. The LA says it has been working with the parents of the four boys concerned to ensure that they are allocated a suitable secondary school place. It says: *“Under the Admissions Code, there is no requirement that everyone in a catchment is admitted – and if the four parents had (in line with LA guidance) included as one of their preferences (i) their next nearest grammar school or in one instance their nearest grammar school (i.e. Burnham Grammar School) or (ii) their nearest upper school (i.e. Chalfont’s Community College in Chalfont St Peter) then they would have been allocated a school place. For the next allocation round, we have advised the four parents to include Burnham Grammar School as one of their preferences to increase the likelihood of securing a grammar school place. There are also places available at Chalfont’s Community College should the children require a place in their town”.*

Further points of clarification

38. I requested 2 points of clarification: The first was whether it is case that all of the girls who qualified for a grammar school place, and who applied to the school, had been offered a place at the school. The LA’s response was that *“all girls living in catchment who qualified for a*

grammar school place, and who applied to Chesham Grammar School were offered a place at the school. Grammar qualified girls living in Chalfont St Peter are in catchment for both Dr Challoner's Girls and Beaconsfield High - unfortunately there is no equivalent boys grammar school in Beaconsfield. Not all out catchment children (nearly all from out county) could be offered a place – the school currently has 51 children on its waiting list.”

39. The second question I asked was what the effect would be upon girls if the catchment area of the school were changed so that it included the area under discussion around Chalfont St Peter. The LA's response was that *“As at today's date, Chesham Grammar School offered places this year to 36 girls living out of catchment (nearly all from Hertfordshire). If the catchment area of the school were changed so that it included the area under discussion around Chalfont St. Peter, then this could reduce the number of girls offered a place at the school living out catchment; The impact is expected to be minimal as this year there were no grammar qualified girls living in Chalfont St Peter who expressed a first preference for Chesham Grammar School. Note this year, Chesham Grammar School has offered places to 36 boys living out of catchment (again nearly all from Hertfordshire).”*
40. In response to the objector's email dated 11 April 2018, the LA made further representations in relation to the issue relating to transport to Burnham Grammar School from Chalfont St Peter. It said:

“We acknowledge the concerns regarding transport to Burnham Grammar School although this is an inherent problem with grammar schools because of where they are located, choice and being a rural authority – i.e. DfE guidance on travel times does not necessarily apply; Selective schools typically draw pupils from wide ‘catchment’ areas, while non-selective (upper) schools will predominantly serve the needs of their immediate, local communities. For instance, children from Chalfont St Peter could attend the upper school within their local community as BCC home to school transport policy does not differentiate between upper and grammar schools (i.e. ‘it is generally considered that an upper school is able to provide an adequate education for a grammar qualified pupil’). Notwithstanding home to school transport policy, colleagues in the Admissions and Transport teams are looking at extending existing discretionary transport to Burnham Grammar School from Chalfont St Peter which would reduce the travel time down to c. 1 hour (which would be dependent on the children taking up a place at Burnham Grammar School).

With regard to the objector's comments on paragraph 3....the sentence should have only read ‘This effectively reduced the size of the DCG [Dr Challoner's Grammar] catchment’. The impact on the CGS catchment is effectively immaterial as CGS can admit all children living in catchment – the point being made

is that once CGS fills from catchment the remaining places are generally offered to children living outside the catchment area that live closest to the school largely from Herts. The important point, as confirmed by the objector, is that because fewer children than expected put down CGS as a first preference this year from Area 5, offer distances for Dr Challoner's Grammar School reduced between 2017 and 2018 from 7.211 to 5.548 miles in catchment) – reducing the availability of places at DCG for children living in Area 7. While the increase in preferences for DCG may not be statistically significant – it has had a significant impact on the availability of school places at DCG.”

41. I am grateful to the LA for this additional information.

Analysis

42. The operation of the 2018 admission arrangements for Buckinghamshire grammar schools has led to a situation whereby a number of boys living within the county who have qualified for a grammar school place have not been offered one. The LA has been, and continues to be, in discussions with the parents of the boys affected. Various steps have been taken, and suggestions made, with a view to allocating grammar places to these boys. For example, Dr Challoner's Boys School has exceeded its PAN, and offers have been made by the LA to provide transport from Chalfont St Peter to Burnham Grammar School. None of this is directly relevant to my determination, which can only be concerned with the arrangements for 2019 and whether or not they conform with the requirements relating to admissions.
43. The facts are, however, relevant as they show that in the most recent past, not all boys who reach the required standard for a grammar school place and live in the catchment area for Dr Challoner's Grammar School can be accommodated at that school. They also show that, again in the most recent past, boys who cannot gain a place at Dr Challoner's because they live in the area midway between Amersham and Beaconsfield running north-west from Chalfont St Peter may also fail to gain a place at Chesham Grammar School. This is despite the fact that Chesham Grammar School does not fill from its catchment but actually has capacity for a significant number of out of catchment children. However, places outside catchment are awarded (after some limited groups) on the basis of distance from the school. Thus boys living in the relevant part of the Dr Challoner's Grammar School catchment which is the area of concern to the objector also fail to be close enough to Chesham Grammar School to gain places there based on distance out of catchment.
44. The arrangements for admission to the school in 2018 which resulted in this situation remain unchanged for 2019. It seems likely to me on the basis of the evidence provided by the LA in particular that in 2019 the same situation may well arise. The trust, as the admission authority for the school, has been in discussion with the LA, and is willing to take

steps to apply for an in-year variation for the purpose of amending the arrangements for admission to the school in September 2019. If I uphold this objection, the trust will be required to amend the arrangements within two months or by such other deadline as I may specify. It would not be necessary for the trust to make an application for an in-year variation. I am grateful to both the LA and the trust for their cooperation. However, I cannot simply uphold this objection because that is what all the parties would like me to; I can uphold the objection if, and only if, the arrangements do not conform to the requirements relating to admission.

45. There are two strands to the objection. The first is that the admission arrangements for the school are unreasonable because the school's catchment does not include a small rural area approximately midway between Amersham and Beaconsfield running north-west from Chalfont St Peter. The effect of not including this area in the school's catchment is that, for admissions to secondary schools in September 2018, four boys who have qualified for a grammar school place have not been offered a place in any Buckinghamshire grammar school. The potential unfairness was drawn to the attention of the LA and the school in the context of a consultation on the catchment area. For various reasons, although the catchment area for the school was amended, it was decided not to include this area. The issue was brought to the attention of the LA by the OSA in August 2017. The OSA was informed that the LA was in discussion with the school about the issue. The LA has said that it would have been too late at this point in time to amend the arrangements for 2018.
46. The second strand to the objection is that the effect of not including the relevant area within the catchment area for the school disadvantages boys.

The first strand to the objection

47. I have considered the first strand to the objection with reference to the paragraph of the Code cited by the objector and the other paragraphs I have identified as being relevant. The objector cites paragraph 1.14 of the Code as the basis for the objection. This states that: "*Catchment areas **must be designed so that they are reasonable and clearly defined.***" I have considered this carefully. My conclusion is that the catchment area for the school is clearly defined. I have reached this conclusion based upon the maps provided which make clear where its boundary falls. Details of the catchment area are published as part of the admission arrangements and accessible to applicants.
48. I have also concluded, on balance, that the catchment area for the school is a reasonable one. The test I have applied in reaching this conclusion is whether the catchment area in question is a catchment area which no reasonable admission authority could have drawn up. This is an objective test.

49. In considering whether a catchment area is reasonable, it is necessary to consider both the reasons for adopting it and its practical operation. Relevant factors to be taken into account in drawing up a catchment area are the number of children living within it, transport routes and the location of other schools. Based on the evidence before me, my conclusion is that the drawing of the catchment boundary was considered properly, taking into account relevant factors. It cannot be considered arbitrary. There appears to be no logical reason for the exclusion of the area in question from the school's catchment; however, it was not anticipated that this would cause a problem when the catchment area was drawn up because it had not caused a problem at that point in time.
50. This year the operation of the catchment area has created a situation whereby four boys living in the Chalfont St Peter area qualifying for a grammar school place have not been offered one. The LA states that there are school places, including grammar school places available for these boys, such that my conclusion is that the catchment area for the school is not one that no reasonable admission authority would have drawn up having taken into account all relevant factors. However, it is now clear from what has happened that what appeared to be a reasonable catchment area when it was drawn up has operated to cause unfairness, and so for this reason does not comply with the Code, as I will explain below.
51. Other paragraphs of the Code relevant to this objection are paragraphs 14, 1.1 and 1.8. Paragraph 14 is relevant to this strand of the objections. Paragraphs 1.1 and 1.8 are relevant to the second strand of this objection.
52. The requirement in paragraph 14 is that: "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*" My conclusion is that the arrangements are clear and objective but they are also unfair. In considering fairness, I have focused upon the effect, and the consequence, of the arrangements upon boys living within the rural area approximately midway between Amersham and Beaconsfield running north-west from Chalfont St Peter identified by the objector. On the basis of the evidence presented to me in relation to the operation of the arrangements for 2018, I have concluded that the arrangements for admission to the school have operated to create an unfairness, and that this unfairness is likely to recur in relation to admissions to the school in September 2019 unless the arrangements are amended.
53. As I have said above, there appears to be no logical reason for the exclusion of the area in question from the school's catchment. Because of its distance from Dr Challoner's Grammar School, which is the only grammar school including this area within its catchment, there was a foreseeable risk that boys living in this area would not be offered a

grammar school place. This risk was identified but not acted upon because it was merely a possibility which had never manifested itself, and the school did not anticipate it would become a reality. But the unfairness is now a reality for the four boys affected, and there is no suggestion from the school or the LA that the situation is likely to be any different in September 2019 for boys living in this area. Indeed, both the school and the LA are clear that they do not wish to see any repetition in September 2019 of the unfairness which has occurred in relation to admissions for September 2018. As stated above, the school has decided to apply for an in-year variation for admissions in 2019. It will not be necessary for this action to be taken because I uphold this objection on the basis that the arrangements for admission to the school in September 2019 do not comply with paragraph 14 of the Code, and so the trust, as the admission authority for the school, will be required to amend the arrangements.

The second strand to the objection

54. The second strand to the objection is that the effect of not including the area under discussion in the catchment area for the school disadvantages boys. Relevant paragraphs of the Code are paragraphs 1.1 of the Code which states: “*Admission authorities... **must act in accordance with this Code, the School Admissions Appeals Code, other laws relating to admissions, and relevant human rights and equalities legislation**” and paragraph 1.8, which states: “*Oversubscription criteria **must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group*****”.*
55. Since I have already concluded that the arrangements do not comply with paragraph 14 of the Code, it is not strictly necessary for me to reach a conclusion on this point. The arrangements are unfair and will need to be varied anyway. The variation will address the particular unfairness to boys. However, since this is a serious issue, and a distinct strand to the objection, I did not want the objector to think that I had ignored it or failed to appreciate its significance. There is a disadvantage to boys here, but I do not consider that it arises exclusively from the admission arrangements to the school. Therefore, I do not consider that these arrangements fail to comply with paragraph 1.8 of the Code.
56. Had it been the case that all girls who qualified for a grammar school place and who applied to Chesham Grammar School had been offered one, there would be a basis for considering that the arrangements for the school indirectly discriminated against boys. However, this is not the case.
57. If there is discrimination, it appears to arise from the combined effect of the arrangements for the grammar schools within the local authority area. The LA has pointed out in its response to the objection, there is

no person or body with overall control (and therefore overall legal responsibility) for the effect of individual schools' arrangements across the county. That said, it is reasonable to hope that the different admission authorities will cooperate in endeavouring to achieve an overall effect which creates an equal opportunity for girls and boys who qualify to obtain an accessible grammar school place. Both the trust for Chesham Grammar School and the local authority seem well intentioned, and committed to ensuring that boys living in the area identified by the objector will be offered a place at the school in September 2019 if they qualify for one.

58. On the basis of the evidence presented to me, my conclusions are that the school's 2019 arrangements for admission do not comply with paragraph 14 of the Code because the catchment area used to decide the allocation of places operates unfairly to boys living within the rural area approximately midway between Amersham and Beaconsfield running north-west from Chalfont St Peter.

Summary of Findings

59. The objection is based upon the argument that the school's catchment area, which does not include the rural area approximately midway between Amersham and Beaconsfield running north-west from Chalfont St Peter, is unreasonable and unfair to boys. My finding, based upon the fact that four boys living within this area qualified for a grammar school place but have not been able to obtain one in any Buckinghamshire grammar school, is that the arrangements for admission to the school in September 2019 operate unfairly for boys living in this area. There appears to be no logical reason for the exclusion of this area from the school's catchment. Because of its distance from Dr Challoner's Grammar School, which is the only grammar school including this area within its catchment, there is a foreseeable risk that boys in this area will not be offered a grammar school place in September 2019.

60. Both the school and the LA are clear that they do not wish to see any repetition in September 2019 of what has occurred in relation to admissions for September 2018. Therefore, I uphold the objection. I am grateful to the school and the LA for their efforts in trying to resolve the issue, and I thank the objector for bringing this issue to my attention.

Determination

61. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by White Hill Schools Trust for Chesham Grammar School, Buckinghamshire.

62. 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.

Dated: 15 May 2018

Signed:

Schools Adjudicator: Marisa Vallely