



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3481

Objector: A parent

Admission Authority: Excalibur Academies Trust for Fairfield High School, Bristol

Date of decision: 13 August 2018

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 2019 determined by Excalibur Academies Trust for Fairfield High School, Bristol.

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.

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 (the objector), about the admission arrangements (the arrangements) for September 2019 for Fairfield High School (the school), an academy school for pupils aged 11 to 16, which is part of Excalibur Academies Trust (the trust). The objection is to the school's catchment area.
2. The local authority for the area in which the school is located is Bristol City Council. The local authority is a party to this objection. Other parties to the objection are the objector and the trust.

Jurisdiction

3. The terms of the Academy agreement between the multi-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 by the academy trust, which is the admission authority for the school, on that basis. The objector submitted their objection to these determined arrangements on 15 May 2018. The objector has asked to have their 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 their 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, with the exception of one aspect relating to another school, 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. the objector's form of objection dated 15 May 2018;
 - b. the admission authority's response to the objection, supporting documents and subsequent correspondence;
 - c. the comments of the local authority on the objection and subsequent correspondence;
 - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2018;
 - e. maps 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 Excalibur Academies Trust determined the arrangements; and
 - h. a copy of the determined arrangements.

The Objection

6. The objector believes that the school's catchment area does not comply with paragraph 14 of the Code, which requires the practices and criteria used to decide the allocation of school places to be "*clear, fair and objective*" and paragraph 1.14, which states that,

*“Catchment areas **must** be designed so that they are reasonable.”*

7. The objector also referred to a lack of consultation in respect of the admission arrangements of a new school, CST Trinity Academy, which is being established close to the school that is the subject of the objection. It is not within my jurisdiction to consider this matter as an objection has not been made to the admission arrangements of that school. I made this clear in a letter to all of the parties to the objection, dated 25 June 2018. I subsequently discovered that consultation has, in fact, taken place in respect of this school’s admission arrangements.

Other Matters

8. When I considered the arrangements as a whole, I considered that they might not conform with the requirements relating to admission as follows (with relevant Code paragraphs in brackets):
 - a. the oversubscription criteria make reference to “*a linked academy*” and “*a feeder primary school*”, which is unclear (14); and
 - b. the random allocation process does not appear to be supervised by someone independent of the school (1.35).

Background

9. The school, which is located in the northern part of the city of Bristol, became an academy on 1 February 2015. It is part of Excalibur Academies Trust, a multi-academy trust responsible for nine academies, most of which are located in and around Marlborough in Wiltshire. The Published Admission Number is 216. For admission in September 2018, parents of 537 children made the school a preference, including 215 for whom it was their first preference. The oversubscription criteria can be summarised as:
 - i) Looked after and previously looked after children.
 - ii) Children who have exceptional social or medical needs.
 - iii) Children attending a linked academy or living in the catchment area and attending a feeder primary school.
 - iv) Other children living in the catchment area.
 - v) Children of employees of the academy.
 - vi) Out-of-area children attending a feeder primary school.
 - vii) All other children.

Within criteria (iii), (iv), (vi) and (vii) priority is given to siblings. Applications within each criterion are ranked by distance from the school. Where distances are equal random allocation is used to determine which child has priority for a place.

10. It is stated at a later point in the arrangements that the school has no linked academies or feeder primary schools. This renders criteria (iii) and (vi) redundant.

Consideration of Case

11. All of the publicly-funded secondary schools in Bristol are academies, free schools, voluntary aided schools or foundation schools and are therefore responsible for determining their own admission arrangements. However, many of the schools that were formerly community schools, for which the local authority had responsibility for determining admission arrangements, have retained the “*Areas of First Priority*” that the local authority established. An area of first priority is the same as what the Code terms a “*Catchment area*” and this is the term I will use when referring to areas of first priority.
12. Map One (on the following page) was provided by the local authority and shows the areas of first priority of secondary schools in the north of Bristol. These catchment areas cover the whole of the area of north Bristol, so that every address falls within one. Some of the catchment areas are “*joint*”, that is, they give priority for two schools, but this is not the case for Fairfield High School or the two secondary schools whose catchment areas lie alongside its western border: Redland Green School and Orchard School. However, I note that the admission arrangements for Orchard School no longer give any specific priority for children living in its catchment area. After looked after and previously looked after children and siblings, applications are prioritised by distance from the school. In this respect, the map is somewhat misleading.
13. The objector says that the catchment area for Fairfield High School is “*historic and doesn’t echo the local community and the demographical changes that have taken place in the North of Bristol.*” In particular, attention is drawn to an area to the north west of the school for whose residents the school is their closest secondary school (0.9 miles in a straight line) but who do not live within the catchment area. This is the area that I have enclosed by a circle on the map. The objector contrasts this area with other locations in the catchment area both to the north and the south of the school that are 1.3 miles away from the school. The objector goes on to say that children in this area who have formed strong friendships at primary school may not be able to attend their closest secondary school,

“*therefore being socially excluded from being offered places in line with their peers in neighbouring roads that do fall in the first priority area.*”

Map One: North Bristol Secondary Schools and Areas of First Priority

Area of First Priority:
Henbury School

Area of First Priority:
Henbury School

Area of First Priority:
Orchard School

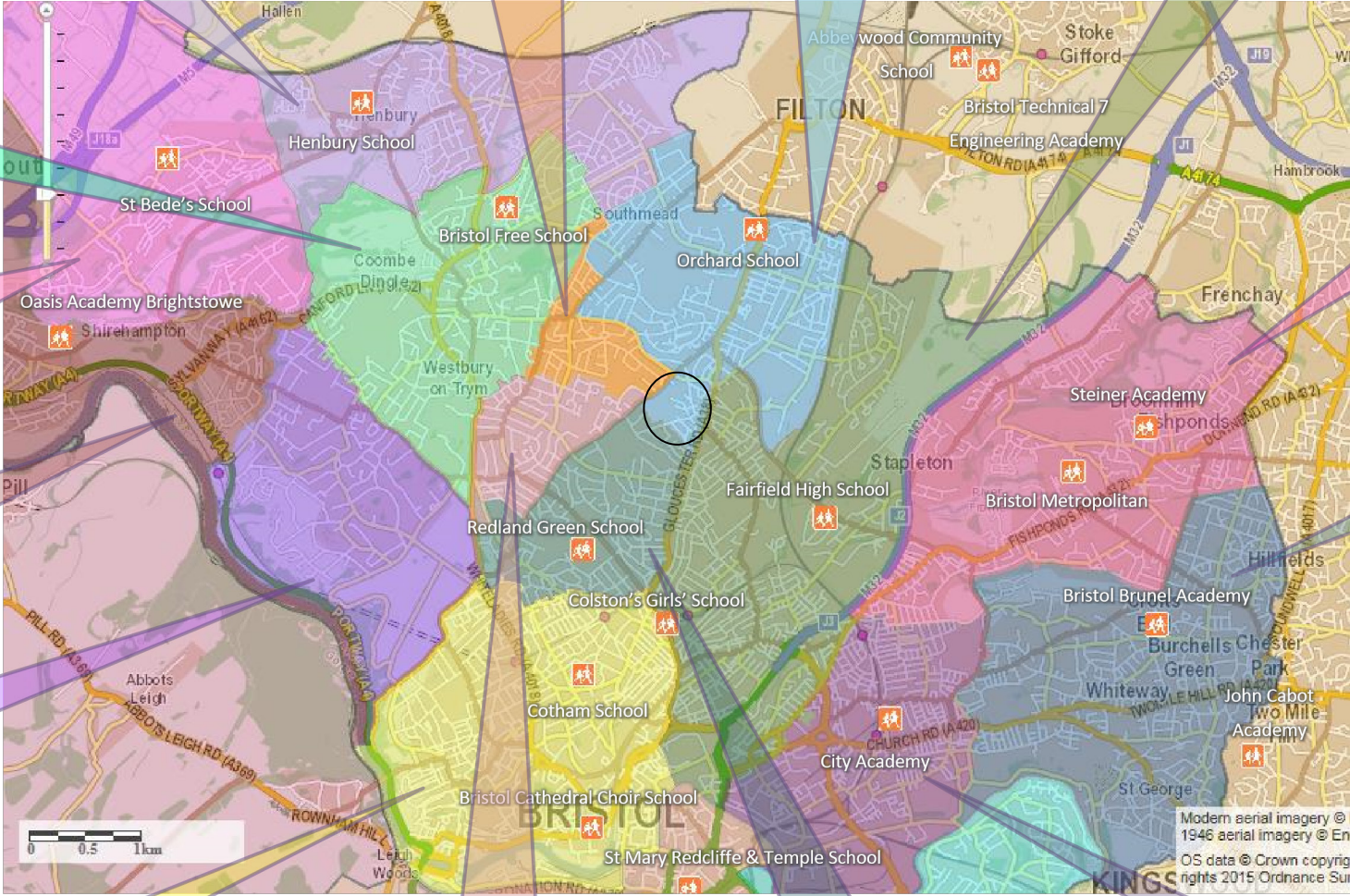
Area of First Priority:
Fairfield High School

Area of First Priority:
Henbury School & Bristol
Free School Joint

Area of First Priority:
Oasis Brighstowe &
Henbury Joint

Area of First Priority:
Oasis Brighstowe

Area of First Priority:
Oasis Brighstowe & Bristol
Free School Joint



Area of First Priority:
Bristol Met Academy

Area of First Priority:
Bristol Brunel Academy

Area of First Priority:
Cotham School

Area of First Priority:
Henbury School

Area of First Priority:
Redland Green School

Area of First Priority:
City Academy

14. The local authority explained to me that the catchment area for Fairfield High School was last reviewed in 2007. It outlined the principles on which the catchment areas are designed.

“Catchment areas cannot always be based on simple proximity to the school...all school priority areas are agreed after consideration is made for factors including: relative demand/supply of places, locality of the individual schools and in relation to each by existing and future housing developments, by access routes such as main roads as well as by postcode areas and ward boundaries.”

I agree that it is not necessary for catchment areas to ensure that every child within a certain distance of the school has priority for a place there. Such an outcome will usually be impossible to achieve across an area where there are several schools. A key purpose of catchment areas is to ensure that all children, including those who live farthest from all of the schools in an area, have some priority for at least one school. As a result, catchment areas are almost always irregular in shape to some extent and they fit together like a jigsaw puzzle. This means that children living further away from a particular school may sometimes have a higher priority for a place than those who live closer, if they live within the catchment area.

15. The edges of the catchment area of Fairfield High School are defined at various points by a motorway, a major road, a railway and a small portion of the boundary of the local authority area. The catchment area could be described as *“rather long and narrow”* and the school is located roughly in the centre. In both September 2017 and September 2018, all children living in the catchment area, whose parents expressed a preference for the school (including those for whom a higher preference could not be met), were allocated a place and there were sufficient additional places for siblings of pupils living outside the catchment area.

16. The trust emphasises that the school has *“built strong and lasting relationships”* with the communities within its catchment area. It says that if it were to alter the catchment area by excluding some of the areas furthest from the school, it would *“disadvantage these localities.”* If, alternatively, it were to expand the area,

“we would create even more demand for places at Fairfield and leave parents disappointed at not being able to get in.”

17. The Code requires, in paragraph 1.14, that the design of catchment areas must be *“reasonable.”* The objector contends that the local authority has been slow to respond to demographic changes and the establishment of a new school in September 2019 (CST Trinity Academy) whose catchment area will overlap with the existing catchment areas. Be that as it may (and it would be for the trust, as admission authority for the school, to determine any change to the catchment area), I do not consider it to be a sufficient ground for concluding that the catchment area determined for Fairfield High

School is unreasonable. Reasons underpinning the establishment of catchment areas in the local authority area have been provided and much of the boundary of the school's catchment area follows obvious geographical features. It is currently of a size where all children living within it whose parents seek a place at the school are able to be offered one. It is a common feature of catchment areas that some children living further away may have priority over some who live nearer the school, and that some children may not live in the catchment area of their nearest school. This is true at the margins of Fairfield High School's catchment area but not to an extent that could, in my view, be considered unreasonable. I do not uphold this ground of the objection.

18. I turn now to consider whether the arrangements comply with paragraph 14 of the Code, which requires them to be "*fair, clear [and] objective.*" I shall have something to say about the overall clarity of the arrangements later but, as far as the objection is concerned, there is no doubt that the catchment area is both clear and objective. The extent of the catchment area is laid out plainly and whether an address falls within it can be determined in a straightforward way. If there is any doubt, a search facility on the local authority's website allows parents to discover quickly in which school's catchment area their address falls.

19. With respect to whether the arrangements meet the requirement for fairness in paragraph 14, I must consider whether their effect is to disadvantage unfairly a particular group of children. The objector believes that they do, identifying those who live in the area immediately to the west of Gloucester Road, which is circled on the map. This area is in what is shown on the map as the catchment area of Orchard School, although a catchment area is no longer used in that school's oversubscription criteria. Fairfield High School is the closest secondary school to properties in this area. If the pattern of the allocation of places for September 2018 were to be repeated, children living in this area who do not have siblings at Fairfield High School may well not be allocated a place there in September 2019. The objector calculates that the addresses in this area are about 0.9 miles (1.5 kilometres) from the school. The last place allocated in September 2018 was to a child living outside the catchment area who was not a sibling of a pupil at the school, who lived 1.16 kilometres away.

20. In September 2019, a new secondary school, CST Trinity Academy, will open. This school's catchment area will not interlock with the current pattern of catchment areas, but will cover significant portions of the catchment area of Fairfield High School and the catchment area previously used by Orchard School. It is not possible to be certain about the effect that the new school will have on the pattern of applications and the allocation of school places, but the local authority's School Place Planning Manager tentatively estimated that the number of applicants making Fairfield High School their first preference for places in September 2019 might reduce by 15 to 20 per cent. If this proves to be the case, children living outside the catchment area, including those within the circled area identified by the objector, may well be more likely to obtain a place at the school.

21. Notwithstanding what may be the pattern of allocation of places in September 2019, it is not automatically unfair that a child cannot attend the secondary school closest to their home. As I have explained above, it may be a consequence of a legitimately designed catchment area that some addresses do not have priority for their nearest school. However, a child should be able to attend a secondary school within a reasonable travelling distance of their home, provided their parents have expressed a preference for it. What constitutes a reasonable travelling distance will vary depending on the type of locality; in rural areas distances are likely to be longer. In a determination about Rivers Academy (ADA3055, ADA3128, ADA3183, ADA3184, ADA3185 and ADA3221), the adjudicator concluded that in a “*relatively densely populated area*” of West London, a secondary aged child should not expect to have to travel more than about 1.5 miles to school. I consider that this part of Bristol has similar characteristics and that the figure of 1.5 miles is an appropriate benchmark. The distance to Orchard School from the addresses that the objector has identified (the circled area) is, by my calculation, a maximum of 1.4 miles. Orchard School was not oversubscribed in 2017 and 2018. If the pattern of applications is repeated in September 2019, children whose parents express a preference for Orchard School can expect to be allocated a place there if a place cannot be offered at a school that they preferred. Indeed, the opening of CST Trinity Academy may well have the effect of reducing the number of applicants seeking a place at Orchard School. I consider, therefore, that children living in the set of addresses identified by the objector are not unfairly disadvantaged by the admission arrangements of Fairfield High School. I do not uphold this aspect of the objection.
22. It might perhaps be helpful for me to clarify what I have said about “*expressing a preference*.” All local authorities are required to co-ordinate admission schemes for publicly-funded schools in their area. These schemes must operate on the basis of “*equal preferences*.” This means that all of an applicant’s expressed preferences (first, second and so on) are considered and they are allocated a place at the school of their highest preference for which they qualify for a place. Naming a school as first preference does not give any extra priority for a place. So, for example, if an applicant living in the area identified by the objector were to name Fairfield High School as their first preference and Orchard School as their second, and were not allocated a place at Fairfield, their preference for Orchard would be considered on the same basis as applicants who had made it their first preference. Past experience suggests strongly that they would be allocated a place at Orchard School.
23. The objector also argues that it is unfair that children living in the identified area may not be able to continue their education with their classmates from their primary school who do live in the catchment area. I recognise that this may be extremely disappointing, but there is no requirement for a secondary school’s admission arrangements to ensure that all children from a particular primary school can transfer to it. The trust has decided not to name any primary schools as feeder

schools and this is a decision it is entitled to make. Any disadvantage this may cause cannot be deemed unfair and I do not uphold this aspect of the objection.

Other matters

24. The school's oversubscription criteria make reference to "a linked academy" and "a feeder primary school". It is stated later that the school does not have any linked academies or feeder primary schools, thereby making two of the criteria unnecessary. The trust explained that,

"The criteria for linked academies and feeder primary schools were included in order to future-proof the admissions policy as the MAT continues to grow, and also to bring it in line with the admissions policies of the other schools within the Trust."

I do not consider this an adequate explanation for the inclusion of the redundant oversubscription criteria. There is no need for the trust to "future-proof" the school's arrangements, as they are required to be determined every year. A desire to produce similar arrangements for all schools in the trust is not a sufficient reason for making a school's arrangements more complicated than they need to be. I consider that in this respect the arrangements fall short of the Code's requirement for clarity (paragraph 14) and they should be amended in order to comply with the Code.

25. The arrangements state that when it is necessary to distinguish between applicants whose home addresses are an identical distance from the school, the places will be decided by random allocation,

"by the Trust's Admissions Officer or locally delegated member of staff."

I was concerned that this might be in breach of paragraph 1.35 of the Code, which states,

*"The random allocation process **must** be supervised by someone independent of the school."*

The trust subsequently clarified that the random allocation would take place, "in the presence of a supervising person independent of the school." I consider that the wording of this part of the arrangements should be amended to this effect in order to confirm that the Code's requirements are met.

Summary of Findings

26. The school's catchment area does not include all addresses for which it is the closest school, but I consider that its design is "reasonable" as required by paragraph 1.14 of the Code. Children who live in an area for which Fairfield High School is their closest school, but are not in its catchment area, are not unfairly disadvantaged. There is another

secondary school within a reasonable travelling distance and children living in the area identified by the objector are likely to be able to secure a place there. Therefore, I do not uphold the objection. There are other ways in which the admission arrangements do not comply with the requirements of the Code.

Determination

27. 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 2019 determined by Excalibur Academies Trust for Fairfield High School, Bristol.
28. 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.
29. 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: 13 August 2018

Signed:

Schools Adjudicator: Peter Goringe