



Determination

Case reference:	ADA3545 and ADA3561
Objectors:	A parent and the Governing Board of William Lilley Infant School
Admission authority:	The Spencer Academies Trust for Fairfield Primary Academy, Stapleford, Nottingham
Date of decision:	1 October 2019

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements for September 2020 determined by the Spencer Academies Trust for Fairfield Primary Academy, Stapleford, Nottingham.

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 set by the adjudicator. In this case the admission authority is required to revise its arrangements within three months of the date of publication of this determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), two separate but similar objections have been referred to the adjudicator by, in one case, a parent and, in the other, the headteacher and chair of governors on behalf of the governing board of William Lilley Infant School, (the objectors) about the admission arrangements for September 2020, (the arrangements) for Fairfield Primary School Stapleford, Nottingham (the school), an academy for children aged 4-11 with admissions at Reception Year (YR) and at Year 3 (Y3). The school is part of the Spencer Academies Trust (the trust). The objections are that the reduction in the published admission number (PAN) for Y3 is unfair to those children who would have expected to gain a place at the school having previously attended William Lilley Infant School (the infant school) which is the only named

feeder school for the primary school; about the manner in which the trust conducted the consultation for the reduction in PAN and the subsequent decision; and about the way in which the determined arrangements were published.

2. The local authority (LA) for the area in which the school is located is Nottinghamshire County Council. The LA is a party to this objection. Other parties to the objection are the objectors and the trust.

Jurisdiction

3. The terms of the Academy Agreement between the 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 trust, which is the admission authority for the school, on that basis. The first objector, the parent, submitted their objection to these determined arrangements on 2 May 2019. This 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. The second objection was submitted on 14 May 2019. I am satisfied that the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

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 objectors' forms of objection dated 2 and 14 May 2019;
- b) the admission authority's response to the objections and supporting documents;
- c) the comments of the LA 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 the schools and their respective catchment areas;
- f) details of the consultation on the arrangements;
- g) copies of the minutes of the meeting at which the trust determined the school's arrangements; and

h) a copy of the determined arrangements.

The Objection

6. The parent's objection is that the reduction of the Y3 PAN at Fairfield Primary School from 70 to 40 is unfair because the infant school is the only school named as a feeder school for the school and parents have an expectation that their children along with the other children in their class will be able to leave the infant school and gain a place at the primary school. This objector also says that the primary school initially published its arrangements with a PAN of 70 for Y3 and this was later changed to a PAN of 40 with a comment that the earlier arrangements had been published in error.

7. It should be noted that while the consultation process is part of the admissions process and therefore within my jurisdiction, the arrangements were determined after the consultation had been completed. As part of this objection concerns the consultation process, if I decide to uphold this part of the objection, a breach in the requirements for consultation on its own is unlikely to lead to the determined arrangements being altered or to further consultation on the arrangements for admissions in 2020 but this outcome may have an impact on how consultation is conducted in future years.

8. The second objection concerns the fairness of the decision that was made but also looks at the procedure that was followed and argues that:

- The trust did not comply with paragraph 1.45 of the Code because it failed to consult effectively and did not properly consider the consultation responses.
- The trust did not comply with paragraph 1.46 of the Code which requires admission authorities to determine admission arrangements by 28 February in the determination year.
- The trust did not comply with paragraph 1.47 of the Code and notify the appropriate bodies (in this case the relevant bodies concerned are the governing bodies for community and voluntary controlled schools in the relevant area.)

Background

9. Fairfield Primary Academy is a large primary school with an intake at YR and another intake at Y3. At Y3 there is one named feeder school which is William Lilley Infant School (the infant school), a community infant school. Up until 2015 the PAN at YR in the primary school was 30 and the PAN at YR in the infant school was 60. There was a PAN of 70 for admission to the primary school at Y3 which was sufficient to accommodate the 60 children in an infant school year group with an additional 10 places available in case there had been children move into the area.

In 2015 the primary school increased its PAN at YR from 30 to 60. The primary school sought funding to increase the capacity of the school buildings but to date it has not received any funding to be able to do this. In October 2018 it commenced a consultation to reduce its PAN at Y3 from 70 to 40 in 2020 on the grounds that it will be unable to accommodate the pupils that it is admitting at YR as well as the 70 children that it has previously admitted at Y3.

10. The two schools have catchment areas which were established when the schools were both community schools with the LA as the admissions authority. The primary school has a catchment area, of which approximately two thirds is also the infant school catchment area. The primary school does not make a distinction between the catchment area for YR and Y3 in its arrangements and refers to the whole area as its catchment area. This is different to the map sent to me by the LA which shows the Key Stage 1 (KS1) catchment area for the primary school as different to its Key Stage 2 (KS2) catchment area. I shall return to this point later.

11. The LA provided the following pupil number projection information. It gave the data for the wider area but I have extracted the data relevant to these two schools.

		Year R	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Housing forecast growth	Total school rolls	Total including housing growth
2018	Fairfield	53	60	55	121	97	98	100		584	
	William Lilley	36	49	56						141	
	housing								0		725
2019	Fairfield	59	63	60	119	124	100	100		625	
	William Lilley	50	41	51						142	
	housing	6	6	6	5	5	5	4	37		804
2020	Fairfield	56	59	63	124	122	127	102		653	
	William Lilley	45	54	45						144	
	housing	9	9	9	9	8	8	7	59		856
2021	Fairfield	57	56	59	127	127	125	129		680	
	William Lilley	44	50	56						150	
	housing	12	12	12	12	12	12	10	70		911
2022	Fairfield	58	57	56	123	130	130	127		681	
	William Lilley	46	49	52						147	
	housing	15	15	15	15	15	15	14	104		932
2023	Fairfield	57	58	57	120	126	133	132		683	
	William Lilley	45	51	51						147	
	housing	19	18	18	18	18	18	17	126		956

12. The stated capacity of the primary school in its funding agreement dated 29 August 2013 is 435 children. On 15 December 2017 the school submitted a capacity statement to the LA which gave the calculated capacity as 524 children. The Department for Education's Get Information About Schools website gives the capacity of the school as 660 children. The capacity of the infant school is 180 children.

13. I have summarised the oversubscription criteria for the primary school in 2020 as follows:

YR

1. Looked after or previously looked after children;
2. Children living in catchment with a sibling at the school or the William Lilley Infant school (the infant school);
3. Children living in catchment;
4. Children with a sibling at either the primary school or the infant school;
5. Other children.

Y3

1. Looked after or previously looked after children;
2. Children who attend the infant school, live in the catchment area and have a sibling in the primary or the infant school;
3. Children who attend the infant school and have a sibling in the primary or the infant school;
4. Children who live in the catchment area and have a sibling in the primary or infant school;
5. Children who have a sibling in the primary or infant school;
6. Children who attend the infant school and live in the catchment area;
7. Children who live in the catchment area;
8. Children who attend the infant school;
9. Other children.

These oversubscription criteria differ from the 2019 arrangements for Y3 admissions which were as follows:

1. Looked after or previously looked after children;
2. Children who attend the infant school and have a sibling in the primary or the infant school;
3. Children who attend the infant school;

4. Children who live in the catchment area and have a sibling in the primary or infant school;
5. Children who live in the catchment area;
6. Children who have a sibling in the primary or infant school;
7. Other children.

Consideration of Case

Consultation and determination

14. The objections to these arrangements concern the consultation, decision making and publication process and the fairness of the arrangements. I shall deal with the consultation and decision making process first.

15. The first part of the objection from the school governing board is that the trust failed to consider all the comments made in response to the consultation and in doing so did not consult effectively. Paragraph 1.45 of the Code says “*failure to consult effectively may be grounds for subsequent complaints and appeals.*” The parental objection is along similar lines.

16. The objectors argue that the primary school increased its PAN at YR from 30 to 60 without consultation with the local community or the LA with the result that there were now 120 places between the two schools, when 90 places up to then had been sufficient to provide places for children living in the combined catchment area. The objectors assert that the additional 30 places were filled by drawing children from out of catchment into the school or by taking children who would have attended the infant school. The objectors argued that the reduction in numbers required to manage within the primary school’s accommodation could have come from returning their PAN at YR to 30 and they assert that there is no evidence that this was properly considered by the trust when determining the arrangements for 2020 apart from a brief reference stating that it was “*not deemed as workable*”. I note at this point that although the objectors refer to a lack of consultation for this change, paragraph 1.3 of the Code says “*own admission authorities are not required to consult on their PAN where they propose either to increase or to keep the same PAN.*”

17. The LA responded to the consultation on 30 November 2018 and raised a concern about the proposed change to the admission arrangements for the school and the reduction in PAN for Y3. It had “*identified that by removing the linked arrangements for William Lilley Infant School, amending the sibling connection and reducing the PAN would impact on local children currently attending William Lilley Infant School as this would result in junior provision in the locality being reduced. Specifically, the proposed arrangements for year 3 did not recognise the priority for siblings of children attending William Lilley Infant School and this differed from the criteria for admission to reception. However, at the time of consultation,*

Nottinghamshire County Council identified that across the Broxtowe planning area there was a sufficiency of places for children living in that area.”

18. In communications with me, the trust has robustly defended its approach. It had published a consultation document and invited comments to be submitted. It described how the headteacher of the infant school responded to the consultation by placing information upon the infant school website that actively encouraged that school’s parents to respond to the consultation with a template for a response and it claimed that the website provided inaccurate information including:

- *“the consultation was ‘strongly opposed’ by the Local Authority whereas the Local Authority is supportive of the consultation process and held no position on the underlying issues*
- *that having anticipated the construction of additional classrooms, The Spencer Academies Trust had ‘subsequently decided that this would not be financially viable’ whereas the decision not to expand the school footprint at this time constituted a reasonable response to the fact that there is local sufficiency for primary school places. It was further incorrectly reported that applications for planning permission for extension work to accommodate additional classrooms had been submitted and approved.*
- *That parental choice would be removed for current and future families whereas parties were aware that steps had been taken to ensure that additional children will be accommodated until 2020.”*

19. The trust wrote to the headteacher concerned saying *“that co-ordination of a campaign against the proposed changes constituted an unwarranted and unreasonable intervention in the consultation process”* and *“instructed”* her to remove this information from the infant school website on the grounds that it was subverting their consultation.

20. The trust says that it took advice from the LA in this matter. The LA, however, acknowledged that it had been informed about what had occurred but was clear that any decisions about how to handle the consultation were made by the trust.

21. The trust reports that it received 317 responses, of which:

- *“98 responses were received from the parent or carer of a child at Fairfield Primary Academy*
- *167 responses were received from the parent or carer of a child at William Lilley Infant and Nursery School*
- *9 responses were received from the parent or carer of a child at another school*

- 23 responses were received from a member of staff at Fairfield Primary Academy or another school
- 23 responses were categorised as ‘other’”

22. The trust summarised the responses as “88.6% of respondents said that they were ‘strongly against’ proposals, and 3.2% ‘not in favour.’ 6% of respondents were ‘strongly in favour,’ and 1% ‘in favour.’ 1% of respondents categorised their opinion as ‘not sure.’”

23. This information is drawn from a discussion paper that was considered by the trust and which went on to discuss how it could identify and discount responses that had been received on the basis of incorrect information and a suggested response. The paper did not reach a conclusion and the minutes of the trust meeting lack sufficient detail to be able to understand what was discussed at the meeting. The minutes state that “*recommendations were received for the revised PAN as per the consultation document and that this was carried by acclamation.*”

24. In considering this matter I have compared the process followed with the requirements of the Code in respect of consultation. In this current case, the trust was seeking to reduce the primary school’s PAN at Y3 and it understood that it was required by the Code to consult on this reduction. The trust published its consultation and invited comments to it. Paragraph 1.44 of the Code sets out who an admission authority **must** consult with and I can see evidence that the relevant parties had access to the consultation and 317 responses were received.

25. In order to reach the parents of children who attend the infant school the trust needed the support of the infant school in sharing the consultation document. However, the trust took exception to the headteacher of the infant school expressing her views to her parents and not only suggesting that they respond to the consultation but also suggesting a template response. The trust’s letter to her that I have quoted from above “*instructed*” her to remove the information from the infant school’s website. I find the antagonistic approach from the trust surprising and inconsistent with a body that is seeking to consult fully. I observe that the trust lists the infant school as a feeder school and in its correspondence stresses its wish to work with the local community. The trust should not have been surprised that the headteacher of the infant school whose parents were the most directly affected by the proposals would have had strong views, and there is nothing in the Code that prevents any person encouraging others to respond.

26. In my view it was not a reasonable action for the trust to decide to disregard any response that it considered had been a result of the infant school headteacher’s template response. Indeed, the objection from a parent makes exactly this point. This parent felt strongly about the proposals and comments that she used the suggested comments as a starting point for her own response. She

does not believe that the trust took proper account of her comments when the trust made its decision about future action.

27. The Code in paragraph 1.45 sets out who must be consulted with and the paragraph ends with the comment that the objector quotes “*failure to consult effectively may be grounds for subsequent complaints and appeals*”. In this case there are parties who believe that their views were not given proper consideration when the trust made its decision. There is evidence provided by the trust that over 90 per cent of the 318 respondents did not support the proposed change. There is no explanation provided by the trust about whether or not it took account of any of these views and in particular the view that it would have been preferable to reduce the primary school’s PAN at Year R to reduce the numbers of children in the school. The trust provides no evidence for its assertion that the comments based on a suggested template are invalid consultation responses and the trust provided no evidence of a reasonable level of engagement with the governing board of the school that is most affected by the changes proposed.

28. I was sent a great deal of information by the different parties in this matter. There are strongly held views on all sides. The trust set out to consult on a change in its admission arrangements and received many responses to the consultation. It was not conducting a referendum but in order for consultees to feel that it had been a proper consultation the trust did need to be able to provide evidence that it had taken account of responses received irrespective of whether they included what it describes as template responses and it would have been reasonable to have shown a willingness to engage with consultees to discuss the issues of concern. The Code does not provide detail about how a consultation is carried out beyond what is stated in paragraph 1.45 so I am not in a position to determine whether or not the trust has complied with its requirements, in consequence I shall limit my comments to reporting on the facts of the matter as I have done above.

29. The second part of the objection concerns the way that the determined arrangements were published. The trust had published the consultation response report on the school’s website by the end of January. However, the trust did not specify what changes it would or would not be making. The trust board met on 24 February 2019 but there is no clear description of what happened next. At some point after this the trust posted the determined arrangements on the school’s website. The LA said it received the determined arrangements on 20 March and the objectors say that they saw the arrangements on the school’s website around the 25 March. The PAN for Y3 was initially published as 70 which was then changed to 40 at an unspecified date after this but before 26 April. The Code requires arrangements to be determined by 28 February each year (so by 28 February 2019 for admissions in September 2020) and a copy to be submitted to the LA by 15 March. Paragraph 1.49 of the Code says that “*local authorities must publish on their website.....details of where the determined arrangements for all schools, including academies, can be viewed.....by 15 March in the determination year.*” In

order for the LA to be able to do this the school must have published the determined arrangements on its website by this date. In this case the trust did not comply with the requirement for the arrangements to be sent to the LA by 15 March or ensure it had published its arrangements by this date and the late publication of the determined arrangements, reduced the time available within which objections to the determined arrangements could be made by the deadline of 15 May once the intended PAN had been published. The Code in paragraph 3.6 permits the correction of a misprint in determined arrangements, in this case the correction was made between one and two months after the arrangements were determined. The impact of this misprint and delay in correcting it was significant for consultees as it led them to think that the change to which they were opposed had not been agreed.

30. The Code in paragraph 1.47 requires an admission authority to notify the “appropriate bodies” of the determined arrangements. These would include the governing boards of local schools. This does not appear to have been done at that time.

31. Taking these matters into consideration I uphold the part of the objection that says that the trust as the admission authority did not follow the procedures set out in the Code for informing local governing boards of the change to its admission arrangements; for informing the LA and for publishing its determined arrangements on the school’s website once they had been determined.

The Published Admission Number

32. I now turn to the parts of the objections that assert that the changes made are unfair. The Code in paragraph 14 says 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.*” In this case the objection is that the proposed reduction in the Y3 PAN from 70 to 40 is unfair on children from the feeder infant school who may fail to gain a place at the primary school for their education from Y3 onwards. William Lilley Infant School is the only named feeder school for the primary school, and the objectors assert that children have always been able to move directly to the primary school in Y3 if desired, because there have always been sufficient numbers in their Y3 PAN to accommodate the children leaving the infant school.

33. When the LA was the admission authority for both schools, it fell to the local authority to set the catchment areas and the PANs. The infant school was given a catchment area and a PAN of 60 to meet the admission needs of that catchment area and the primary school had a catchment area for KS1 and a PAN of 30 at YR which reflected the admission needs of the part of the primary school catchment area that was not within the infant school’s catchment area. The 30 children admitted to the primary school at YR continued in the school at Y3 and there were sufficient places in the Y3 PAN of 70 to enable all the children leaving Y2 of the

infant school to be admitted into Y3 of the primary school resulting in a Y3 cohort of up to 100 children.

34. The primary school displays a clear catchment area map on its website and says that it uses the same catchment area at both YR and Y3. The infant school objection asserts that the primary school traditionally had two catchment areas. The one which is currently on the primary school website applied to children of junior school age and which had a year group size of 100 children. The infant school has a catchment which represents about two thirds of this junior school catchment and a year group of 60 and the remaining third of the area was in fact the primary school catchment at YR with a historical year group size of 30. In effect therefore, the YR admissions were shared between the two schools and then all these admitted between the two schools came together at Y3 in the primary school. This balance was changed when the primary school decided to increase its PAN at YR from 30 to 60. The Code did not require consultation to take place over this increase in PAN, however, it does require consultation on other changes which would include a change of catchment area. The LA has provided maps that confirm that there are three catchment areas for these two schools and that the primary school should have a catchment area at KS1 which is different to KS2. I have seen no evidence that there was a consultation to change the catchment area.

35. Additional children have been admitted to the primary school but additional accommodation has not been secured with the result that the school asserts that it is reaching its physical capacity. It is unclear to me which capacity measurement to use since the Get Information About Schools website gives a capacity of 660 for the primary school which would be sufficient to accommodate the increased number of children. However, the school capacity is given as 524 in the 2017 capacity assessment submitted to the LA and the 2014 funding agreement for the academy gives a capacity of 435. The LA figures quoted above show that the school has a current roll of 584. These children will progress on through the school and when the first cohort reaches Y6 in 2021 and assuming that the Year R admission continue at the current level and there had been no change made at Y3 admissions, there could be 210 more children in the school than there were in 2015. The projections above show that there is likely to be housing growth in the area and this will add to the pupil numbers, however this is a matter that will need to be addressed by the LA in its place planning role. The trust was anticipating that it would be able to secure funds to increase the size of the school on the basis of its increased admissions but this has not been the case. The increase in pupil numbers in the school is mainly a result of the decision to increase the admissions number rather than a result of population changes or new housing in the area.

36. The primary school is operating for 2019 with 19 classes (2 each in YR Y1 and Y2, 4 in Y3 and 3 each in Y4 Y5 and Y6) and an average of 33 per class (source the school prospectus) = 627 children.

37. I have drawn up a table to demonstrate the number of classes the primary school might need to manage its pupil numbers as follows;

	Classes in 2019	Number of classes if no change with YR at 60 and Y3 PAN at 70		Number of classes if Y3 PAN reduced to 40 and YR at 60		Number of classes if YR reduced to 30 and Y3 PAN at 70	
		In 2020	In 2023	In 2020	In 2023	In 2020	In 2023
YR	2	2	2	2	2	1	1
Y1	2	2	2	2	2	2	1
Y2	2	2	2	2	2	2	1
Y3	4	4	4	3	3	4	3
Y4	3	4	4	4	3	4	4
Y5	3	3	4	3	3	3	4
Y6	3	3	4	3	3	3	4
total	19	20	22	19	18	19	18

38. The trust has decided that the only way to manage this situation is to reduce the PAN at Y3. By doing this it will reduce the number of children in the school over the next four years by 120 and in this way keep the overall pupil numbers at or around the current school roll of 584. The objectors argue that this is unfair because parents of children attending the infant school sought places there with the reasonable expectation that their children would be able to progress to the primary school at Y3 as a group because the PAN at Y3 exceeded the PAN of the infant school at YR and thus there has been sufficient space for all children leaving the infant school at the end of Y2. In the new arrangement, as many as 60 children could join the infant school at YR and thus leave Y2 three years later. However, only 40 of them could find a place at the primary school with the remainder having to find places in other schools. One impact of the change in 2015 has been that the number of children entering the infant school has reduced so the year group is currently not at the capacity of 60. The impact of the change in 2020 will therefore be less than it might have been of the school had been at capacity. However, once the PAN at Y3 has been reduced its impact will be recurrent in subsequent years whatever the number in the Y2 cohort in the infant school in that particular year.

39. The objectors argue that the primary school has the alternative option of reducing its PAN at YR so that over time the pupil numbers return to the original numbers on roll. It can be seen that while it is true that the numbers would over time reduce to the original numbers on roll, the school has 90 additional children who will pass through the school over the next four years which would need to be managed over that period.

40. The LA responded that its projections quoted above are based on the January 2019 census data and include the most recent housing figures from Broxtowe Borough Council. It comments that the actual numbers on roll reflect lower numbers across the planning area and therefore this differs from the projections. Some schools have seen a lower intake than the determined PAN which has resulted in a surplus of school places. In considering the anticipated numbers on roll from September 2019 for YR, Y1 and Y2 across the planning area, there are four schools that currently have available school places in those year groups. Therefore, at the point of transfer to junior education in September 2020; September 2021 and September 2022 it is anticipated that there would be available school places as follows:

	Surplus in Y3 in 2020	Surplus in Y3 in 2021	Surplus in Y3 in 2022
Albany Junior (0.7 miles)	7	16	17
Bramcote CE primary (1.3 miles)	0	6	0
Trowell CE primary(1.9 miles)	2	6	12
Wadsworth Fields primary (0.7 miles)	11	3	19

41. Albany Junior School has an intake at Y3, all other schools are primary schools with a single intake at YR, admissions at Y3 would be for individuals joining an established class if this can be accommodated. All these schools have a designated catchment area that forms part of the admission arrangements.

42. The objectors argue that when the catchment areas were established it had been the intention that there were sufficient places at Y3 to accommodate all the Y2 children from both the schools. However, when the primary school increased its admissions at YR it provided more places than were required for the catchment area and as a result admitted children from out of area. These out of area children would then displace children who were at the infant school who had expected to transfer at Y3. This has led to the infant school offering places to out of catchment area children to compensate for this. The LA has provided the following table that

illustrates the composition of pupils at the two schools as at the January 2019 census:

Fairfield Primary Academy										
Year group	Live in school's own catchment area		Live in catchment area of other schools in planning area		Live outside planning area but in Notts		Live in Notts city		Live outside Notts or city or have an invalid postcode	
	number	%	number	%	number	%	number	%	number	%
R	5	9	44	83	0	0	1	2	3	6
1	8	13	44	73	0	0	0	0	8	13
2	10	18	35	64	0	0	0	0	10	18
3	63	52	33	27	4	3	1	1	20	17
4	52	53	27	27	4	4	1	1	15	15
5	55	57	28	29	1	1	1	1	11	11
6	61	61	27	27	1	1	2	2	9	9
total	254	43	238	41	10	2	6	1	76	13

William Lilley Infant School										
Year group	Live in school's own catchment area		Live in catchment area of other schools in planning area		Live outside planning area but in Notts		Live in Notts city		Live outside Notts or city or have an invalid postcode	
	number	%	number	%	number	%	number	%	number	%
R	25	69	8	22	0	0	0	0	3	8
1	26	52	15	30	2	4	0	0	7	14
2	20	36	22	39	4	7	0	0	10	18
total	71	50	45	32	6	4	0	0	20	14

43. There is a high percentage of pupils attending KS1 at the primary school who do not live in the catchment area. These children will transfer to KS2 without needing to apply for a place, in contrast some of the children who attend the infant school must change school having had the presumption that they would transfer to the primary school. Some of the children who would be expected to transfer to the primary school will be able to transfer to a junior school nearby where there are projected to be seven places available in 2020. Others will have to seek a place at a primary school that does not normally admit at Year 3. This means that these children would join an established class and where there are unlikely to have been transitional arrangements to help with the move. They will not have the additional support that they would have had when changing school with their existing friends and class members.

44. The numbers given above for children currently attending the infant school and requiring places in Y3 in years to come show that the number will be less than 60 but more than 40. The Code does not require schools to work together in admissions and it is never possible to guarantee admission to another school particularly when the schools have different admission authorities. However, in this case where the infant school has been a feeder school for the primary school for many years it seems entirely reasonable that parents whose children attend the infant school should be able to transfer as a group to the primary school. I can see the difficulty that the primary school has over its numbers and this is the result of the decision that it took in 2015 to admit more children at Year R. It seems unfair that the consequences of this decision will be borne by the children who attend the infant school.

45. I asked the LA about its plans for increasing the number of places in the area to accommodate projected housing growth. Its response was that it would be undertaking a project to increase the capacity in the area. One possible way forward would be to increase the age range of the infant school to allow it to become a primary school. Such a plan could mitigate the unfairness on the children who could not find a place in future years. It does not reduce the unfairness for those children, described above, who will not gain a place at the primary school in 2020. There are some linked points that bring me to my conclusion in this matter. Firstly I consider that there will be some children who would be treated unfairly in 2020 if these arrangements go ahead. Secondly, the Code permits the PAN once reduced to remain the same in future years and so the impact of this decision will continue into future years. Thirdly, the Code in paragraph 3.3e does not permit the same or similar objections to be made for two years after a determination is made. In consequence, I uphold the objection that the reduction in the PAN for 2020 is unfair for those children who will not find a place at the school. The resolution of the unfairness could be approached in several ways and I must leave the various parties to meet to resolve the best way of achieving this for 2020 and beyond.

Summary of Findings

46. The objections can be summarised in two parts. The first part is about the procedures followed and my conclusions are that: I have not been shown evidence that the trust took account of the 318 responses to the consultation, most of which were opposed to the proposed change in the PAN. That although the trust determined the arrangements on 24 February which is within the time specified in the Code there is no evidence that it then published the arrangements on its website by 15 March 2019 or sent them to the governing boards of local schools. It sent the arrangements to the LA on 20 March after the deadline of 15 March set out in the Code. The arrangements were published with an error which gave the PAN of 70 instead of the PAN of 40 that had been agreed by the trust. The late correction of this error reduced the time available for objections to the new PAN to be made. I have therefore upheld these objections.

47. The second part of the objection is that the arrangements are unfair and as a result do not comply with paragraph 14 of the Code. I have upheld this part of the objection because I consider that there will be some children who would be treated unfairly in 2020 if these arrangements go ahead. All the children who are expecting to transfer as a group from the infant school to the primary school in 2020 will suffer the uncertainty of knowing whether or not they will gain a place at the school and those who fail to gain a place will have to move to a different school. They may be able to gain a place at the nearby junior school which has an intake at Y3 or they may have to move to a primary school that does not usually have an intake at Y3 but which could accommodate some additional children in the established Y3 class. In either case these children will not have the opportunity to move to a new school with the rest of their class and there will not be established transition arrangements in place.

48. The 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 do not think that two months is sufficient time for the trust to consider its options and consult with the relevant parties on the best way forward taking account of the actual number of children in Y2 at the infant school from September 2019. Parents will be applying for places by 15 January 2020 and so I give the trust three months from the date of this determination to revise its arrangements in order that there is sufficient time for parents at the infant school to be advised of their options when seeking a place for their child in Y3.

Determination

49. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements for September

2020 determined by the Spencer Academies Trust for Fairfield Primary Academy, Stapleford, Nottingham.

50. 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 set by the adjudicator. In this case the admission authority is required to revise its arrangements within three months of the date of publication of this determination.

Dated: 1 October 2019

Signed:

Schools Adjudicator: David Lennard Jones