



Office of  
the Schools  
Adjudicator

## Determination

**Case references: ADA3720 and REF3744**

**Referrer: A parent**

**Admission authorities: Kirklees Council for Scholes Village Primary School and the governing board for Woodlands Church of England Primary School, Bradford**

**Date of decision: 24 August 2020**

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Kirklees Council for Scholes Village Primary School for 2021.**

**I have considered the admission arrangements for September 2021 for Woodlands Church of England Primary School, Bradford in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that they do not cause disadvantage to children living near the local authority boundary. I have also found that 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 for Woodlands Church of England Primary School to revise its admission arrangements by 31 October 2020.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of Schools Adjudicator (OSA) by a parent, (the referrer), about the admission arrangements (the Scholes arrangements) for Scholes Village Primary School (Scholes) and the arrangements (the Woodlands arrangements) for Woodlands Church of England Primary School (Woodlands), for September 2021, the date of the objection was 12 May 2020.

2. The referral relates to the way the two sets of admission arrangements combine to possibly disadvantage children who live near the boundary between the local authority areas of Bradford and Kirklees.

3. When the arrangements were brought to my attention I considered that the Woodlands arrangements did not, or might not, conform with the requirements for admission arrangements because they appeared in parts unclear, omitted mandatory requirements of the School Admissions Code (the Code) and the supplementary information form (SIF) appeared not to meet the requirements of the Code.

4. The parties to the case are the referrer, the governing boards of both schools, Kirklees Council (Kirklees), Bradford Council (Bradford), Bradford Diocesan Academies Trust (the Trust) and the Diocese of Leeds (the Diocese).

## **Jurisdiction**

5. The admission arrangements for Scholes, a community school, were determined by Kirklees on 25 February 2020. I am satisfied that I have jurisdiction to consider the objection to these arrangements under section 88H(4) of the Act.

Woodlands is an academy school within a multi-academy trust. The responsibility for determining admission arrangements has been delegated to the governing board. The funding 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. Admission authorities are required by section 88C of the Act to have determined admission arrangements for September 2021 by 28 February 2020. On 12 May 2020 when the objection was received the Woodlands governing board had not determined the arrangements. Because my jurisdiction under the Act is for determined arrangements it was not possible for me to consider the objection at that time. The governing board subsequently determined the arrangements on 1 July 2020. This was however after 15 May 2020 by when the Code requires objections to admission arrangements for 2020 to be made to the adjudicator. As this deadline was missed, the referral of the Woodlands arrangements cannot be treated as an objection. However, I have the power under section 88I(5) of the Act to consider whether the Woodlands arrangements conform with the requirements relating to admission arrangements.

## **Procedure**

6. In considering this matter I have had regard to all relevant legislation and the Code.

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

- a) the referrer's form of objection dated 12 May 2020;
- b) copies of the minutes of the meetings of the Woodlands governing board and of Kirklees Council at which the two sets of arrangements were determined;

- c) copies of the determined arrangements;
- d) comments from parties on the matters raised and supporting documents; and
- e) maps of the area identifying relevant schools; and
- f) the composite prospectus for primary schools in Bradford for September 2020.

## The Referral

8. The referrer said: “I would like to object to both Bradford and Kirklees primary school admissions policies, which I believe are in breach of paragraph 2.20 of the School Admissions Code, causing unfair disadvantage to children living near the LA boundary”. On the objection form she stated that Woodlands and Scholes were the schools subject to her objection.

9. The referrer cited the case of a child living in Bradford 120 metres from the border with Kirklees who apparently also had low priority for places at other local schools. This, the referrer said, was because schools in Kirklees used a “PPA” [sic] and that schools in Bradford allocated places on the basis of distance. I understand “PPA” to be a typographical error referring to the priority admission area in the arrangements for Scholes. The Code calls a “geographical area, from which children may be afforded priority for admission to a particular school” a catchment area and that is the term I will use in this determination. The referrer considered that this led to some children having low priority for both schools. The referrer said: “the Code also states that authorities must ensure that admission policies don’t unfairly disadvantage, which I believe in this case they do.”

## Background

10. The area in which these schools are found is the southern boundary between Bradford and Kirklees around Oakenshaw. The Department for Education (DfE) database shows 17 state-funded primary schools within two miles of the referrer’s postcode, 13 of which are in the Bradford local authority area, three in Kirklees and one in Calderdale. Within one mile there are four primary schools, all in Bradford. Woodlands is the nearest at 0.55 miles and Scholes, the fifth nearest, 1.07 miles away.

11. The published admission number for Scholes is 30 and the oversubscription criteria can be summarised as:

1. Looked after and previously looked after children
2. Children previously in state care outside of England
3. Children living in the catchment area with a sibling at the school
4. Other children living in the catchment area

5. Other children with a sibling at the school
  6. Other children.
12. The published admission number for Woodlands is 15 and the oversubscription criteria can be summarised as:
1. Looked after and previously looked after children
  2. Children of families who are part of a Christian church
  3. Siblings
  4. Other children
13. Both schools give greater priority within each criterion to children living nearest the school.

## **Consideration of the Matter Raised in the Objection**

14. It is understandable how with multiple local authorities and multiple admission authorities, each with different roles and responsibilities for different types of schools, parents can sometimes get confused about how the school admissions system and process works.

15. The referrer quoted paragraph 2.20 of the Code. This paragraph of the Code sets out the requirements for schemes of co-ordination which allow parents to make a single application for a school place to the local authority in which they live and receive a single offer of a place on the national offer day. The scheme must allow parents to express preferences for at least three schools; these schools may be in any local authority area. In paragraph 2.20 the Code says that consultation on the scheme of co-ordination must be “undertaken with a view to ensuring the admission of pupils in different local authorities is, as far as reasonably practicable, compatible with each other”. These words are quoted by the referrer; however, they apply to the schemes of co-ordination to ensure information is exchanged efficiently between admission authorities. Paragraph 2.20 does not apply to the admission arrangements for individual schools for which I have jurisdiction.

16. The referrer said: “the Code also states that authorities must ensure that admission policies don’t unfairly disadvantage”. While the Code does refer to disadvantage and unfairness, I cannot find the words used as set out by the referrer in the Code other than with regard to children from social or racial groups or children with disability. There is no requirement in the Code for admission arrangements of neighbouring schools to be compatible or have regard to each other. However, paragraph 14 of the Code says: “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” and this is the provision in the Code against which I will test the arrangements.

17. The referrer provided a map showing the location of Woodlands and the catchment area of Scholes in relation to her address. Woodlands is the closest school to her address. Both Woodlands and the referrer's address are within the local authority area of Bradford and about 100 metres from the boundary with Kirklees which, in this area, is coterminous with the boundary of the Scholes catchment area. All of the Scholes catchment area is within the local authority area of Kirklees. The road from the referrer's address to Woodlands passes through the Scholes catchment area. As a result, there are a number of addresses in Kirklees which are both within the Scholes catchment area and closer to Woodlands than are some parts of Bradford for which Woodlands is the closest school. Children living at one of these Kirklees addresses would have higher priority for both schools, than a child living near the referrer's address. The referrer said: "Bradford admissions are giving places to Kirklees children over ourselves and Kirklees are automatically putting us in the priority five admission group as we live out of area."

18. In response to the referral, Kirklees said that Scholes was an oversubscribed school and drew my attention to information on its website concerning the pattern of admission in recent years. This showed that the point of oversubscription was usually reached within the catchment area at a distance of less than half a mile from the school; the referrer lives over a mile from Scholes outside of the catchment area. The part of the catchment area for Scholes identified by the referrer as being closer to Woodlands than the area of Bradford in which she lives is also more than half a mile from Scholes. Therefore, other than those with siblings already at Scholes, children from this part of the catchment area would be unlikely to be offered places. Kirklees pointed out that it was able to offer children from the area in which the objector lives places at other schools in Kirklees.

19. In response to the objection Woodlands expressed sympathy with the points made by the referrer and said that the school was required to have compliant admission arrangements and to apply them correctly. It also drew my attention to the proximity of other schools to the referrer's postcode.

20. Woodlands is a school with a religious character and as such it is permitted to give priority for places on the grounds of faith. It is a small school with a PAN of 15 so, after siblings and children from church-going families, it will have few places to offer on the grounds of proximity. There is no entitlement for a child to attend the closest school to their home; however, it would be unfair if a child cannot find a place at one or another school close to their home in an urban or suburban area.

21. I noted above that there are 17 state-funded primary schools within two miles of the referrer's postcode. From the 2020 composite prospectus for primary schools published by Bradford on its website I have noted that in 2019, one of the Bradford schools less than a mile from that postcode admitted children on the basis of distance from 5.974 miles away. Two other schools less than two miles away admitted children on the basis of distance from farther away than the referrer's postcode. While the distribution of children and the pattern of parental preference may be different in 2021, it would appear to me that children in this area can obtain a school place within an acceptable distance of their homes within Bradford

if their parents applied for them. Maps showing the pattern of attendance at schools found on Bradford's website show children from this part of the local authority area attending several different schools.

22. Although invited to comment on these matters on several occasions, no comment was received from Bradford. I consider it important that I make this determination in time to allow for admission authorities to make any necessary revisions to their arrangements and notify parents of them in good time to be taken into account when parents apply for schools. I can only assume that Bradford have no concerns about the matters raised in this case otherwise it may have assigned greater priority to making a comment.

23. Because it appears to me that children in this area can be offered school places within an acceptable distance of their homes the admission arrangements of the two schools do not combine to disadvantage children in the area. I do not uphold the objection.

## Other Matters

24. When I received a copy of the arrangements determined by the governing board for Woodlands it appeared to me that they did not, or may not, conform with the Code in 14 different ways. These included matters of general clarity such as using obsolete terms such as "residence orders", when paragraph 14 of the Code requires that admission arrangements are clear. Some of the oversubscription criteria also appeared unclear including faith-based criteria. Paragraph 1.8 of the Code requires that oversubscription criteria are clear, and paragraph 1.37 makes further requirements of clarity for faith-based criteria. The Code requires admission authorities to include certain statements in their admission arrangements and some of these could not be found and the SIF did not appear to meet the requirements of paragraph 2.4 of the Code.

25. When I raised these matters with the governing board it sent me a revised set of arrangements which had been approved by the Chair on 15 July 2020 using delegated authority. I take this as an acceptance that the arrangements did not meet the requirements of the Code. Paragraph 3.6 of the Code sets out the limited situations in which an admission authority may vary their arrangements after they have been determined. One is to give effect to a determination by an adjudicator; when the Chair approved the revised arrangements, I had not made any determination on those matters. However, admission authorities may vary their arrangements to give effect to a mandatory requirement of the Code and I have taken this to be the ground on which the revision was made.

26. These revisions address all but two of the matters which I raised and introduced a further element to the arrangements which does not conform with the Code. The new element which does not conform with the Code is a table which states a PAN for the whole school of 105 and a PAN of 15 for each year group. Paragraph 1.2 of the Code and its footnotes explain that there must be a PAN for "each relevant age group". A relevant age group is the one to which pupils are normally admitted, in this case Year R. Other year groups do not have a PAN and there is no PAN for the school as a whole.

27. The first remaining matter is the use of the term “Education and Health Care Plan” when the correct term is “Education, Health and Care Plan” which makes the arrangements unclear. The second is that the requirement set out in paragraph 2.17 of the Code for admission authorities to “make clear in their arrangements the process for requesting admission outside of the normal age group” does not appear to have been met. I am satisfied that the other matters that I raised have been addressed.

28. There is one further matter on which I need to comment. The revised arrangements include a new paragraph which provides some latitude for meeting the requirement to attend worship during periods when churches have been closed due to Covid-19. This paragraph did not need to be added in order to give effect to a mandatory requirement of the Code and so falls into the third of the situations described in paragraph 3.6 of the Code. That is a variation considered necessary by the admission authority to address a major change in circumstances. If this were a maintained school, then I would have jurisdiction to approve this type of variation, however, the school is an academy and as such it requires the approval of the Secretary of State for Education for this type of variation.

## Summary of Findings

29. The referrer said that the admission arrangements of the two schools worked together in such a way as to disadvantage children living in her part of Bradford. While it appears that children living in that area are unlikely to be offered places at either school, there are other schools within a reasonable distance where a place could be found. While parents may be disappointed if they cannot be offered a place for their child at their nearest or preferred schools, I see no unfairness arising if it is possible for them to be offered places at other schools which are not far from their homes. I do not uphold the objection or find that the admission arrangements of either school are unfair in this respect.

30. I find that the admission arrangements for Woodlands do not conform with the requirements of the Code as set out above. Paragraph 3.1 of the Code says that admission authorities must revise their admission arrangements within two months of a determination unless a different time scale is specified by the adjudicator. Because this determination is being made during the school summer holiday I have decided to allow two months of term-time for their revision and so set the date of 31 October 2020 for the necessary revisions to be made.

## Determination

31. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Kirklees Council for Scholes Village Primary School for 2021.

32. I have considered the admission arrangements for September 2021 for Woodlands Church of England Primary School, Bradford in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that they do not cause disadvantage

to children living near the local authority boundary. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

33. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority for Woodlands Church of England Primary School to revise its admission arrangements by 31 October 2020.

Dated: 24 August 2020

Signed:

Schools Adjudicator: Phil Whiffing