



Office of
the Schools
Adjudicator

Case reference: ADA3276

Objector: A parent

Admission Authority: Portico Academy Trust for West Leigh Junior School, Leigh-on-Sea, Essex.

Date of decision: 31 August 2017

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 2018 determined by the Portico Academy Trust for West Leigh Junior School in Leigh-on-Sea.

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, about the admission arrangements for September 2018 (the arrangements) for West Leigh Junior School for children aged from 7 to 11 years. The referral also raised the same concerns with regard to the admission arrangements of West Leigh Infant School and I have considered these in a separate determination, ADA3275, as that school has a different admission authority. The objection is to how priority is given when there are more applications than places for those living in the catchment area and specifically to the fact that within the catchment priority is based on distance from the school with those living closest to the school having a higher priority.
2. The parties referred to in this determination are:
 - a) the parent who made the objection (the objector);
 - b) Southend-on-Sea Borough Council (the local authority) which is the local authority for the area in which West Leigh Junior School is situated;
 - c) the Portico Academy Trust which is the admission authority for the West Leigh Junior School (the trust); and

d) the local governing body for West Leigh Junior School (the junior school).

Other schools referred to in this determination are:

e) West Leigh Infant School (the infant school); and

f) Hadleigh Junior School which is a neighbouring school in the local authority area of Essex County Council.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the Portico Academy Trust, which is the admission authority for the junior school. The objector submitted his objection to these determined arrangements on 18 April 2017. The objector has asked to have his 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 his 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 it is within my jurisdiction.
4. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

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 received 18 April 2017, supporting information and further documentation provided by the objector;
 - b. the trust's response to the objection and the other matters which I raised;
 - c. the local authority's response to the objection, the other matters which I raised and further information on the local authority's website;
 - d. the local authority's composite document containing all determined admission arrangements for infant, junior, primary and secondary schools in the local authority area for 2018, the co-ordinated admissions scheme for 2018/19 and composite prospectus for parents seeking admission to schools in the area in September 2017;
 - e. maps of the area identifying relevant schools and catchment areas;
 - f. information about the most recent consultation on the arrangements;

- g. confirmation that the trust determined the arrangements and extracts of relevant minutes and a copy of the determined arrangements; and
 - h. the admission arrangements for Hadleigh Junior School.
7. I have also taken account of information received during a meeting I convened on 29 June 2017 at the junior school with the objector and representatives of the trust, the infant school and the local authority (the meeting). The meeting was preceded by a short tour of the area to help me understand the context.

The Objection

8. The objection is that the arrangements for the junior school are unreasonable and unfair because children living on the western edge of the catchment area are disadvantaged unduly by the arrangements when the junior school is oversubscribed by those living in the catchment area. A child living near the living on the western edge of the catchment area is also on the boundary of the local authority area. If the junior school is oversubscribed by children living in the catchment area then a child living on the western edge is likely to be allocated a place at a school in the local authority area that is further east. The journey to the next nearest school would be shorter for children living nearer the junior school. These matters relate to how priority is given on the basis of distance when there is oversubscription at the junior school from within the catchment area; fairness; and reasonableness. Paragraphs 1.13, 14 and 1.8 of the Code are therefore most relevant.

Other matters

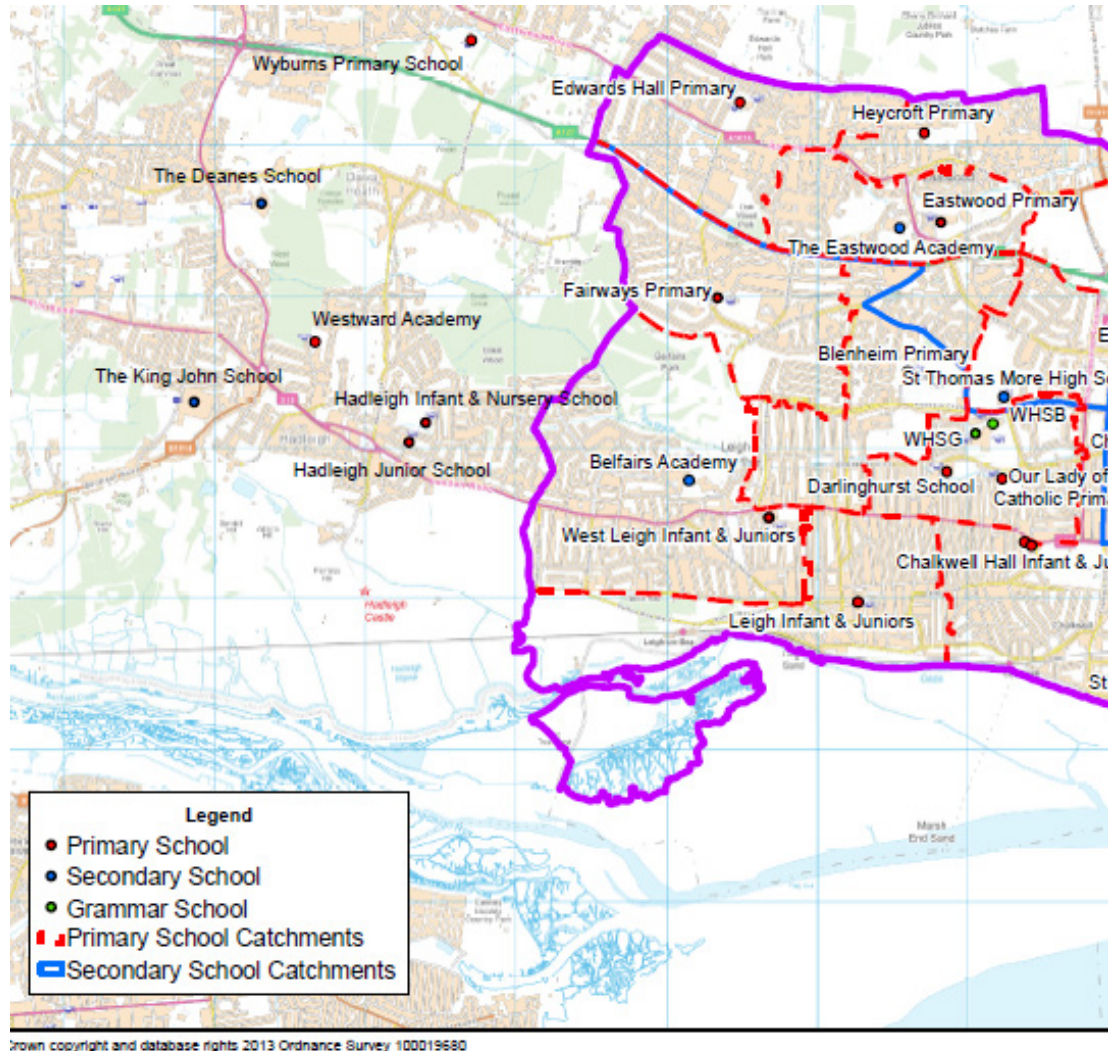
9. The arrangements say, "*Those pupils attending West Leigh Infant School in year 2 are guaranteed a place at West Leigh Junior School for transfer to year 3 only, and there is no requirement to reapply as this will be an automatic process.*" This is in breach of paragraphs 15d and 1.7 of the Code.
10. The definitions of looked after and previously looked after children may not comply with the Code. Paragraphs 14, 1.7 and 1.8 of the Code are relevant to this matter.
11. Some of the required information is not included in the arrangements. This may make the arrangements unclear and so not comply with paragraph 14. These matters were (with the other relevant paragraphs of the Code in brackets):
- a. there is not a tie-breaker (1.8);
 - b. the information on waiting lists does not make it clear that each added child will require the list to be ranked again in line with the published oversubscription criteria (2.14); and
 - c. there is no information on the admission of children outside their normal age group (2.17).

Background

12. The infant school caters for children from reception until the end of Year 2 (Y2) and is, in effect, a feeder school to the junior school. The infant school has a published admission number (PAN) of 120 and it is expected that most, if not all, of the pupils will be admitted to the junior school. The junior school has a PAN of 128 and its normal point of entry is Year 3 (Y3) when children are seven years old. It is usually full but admits children who do not live in the catchment area in most years. There are very few appeals for the school and no appeal has been upheld since at least 2010. At the time of the meeting there were 128 places allocated for September 2017.
13. The junior school became an academy on 1 April 2016. The local authority consulted on its arrangements in 2012 (for 2013) and the arrangements have remained unchanged since then as, upon becoming an academy, the trust determined to continue with the same arrangements, including the same catchment area. An admission authority only has to consult on its arrangements if a change to the arrangements is proposed or at least once every seven years as required by paragraph 15b of the Code so the trust has complied with the Code in this regard.
14. The infant and junior schools are side by side and situated at the eastern edge of their catchment area. This means that families living slightly east and, at this part of the catchment area, north of the junior school are outside of the catchment area. Belfairs Park borders part of the area to the north west and creates a natural boundary. The infant and junior schools are situated to the south of the London Road and this forms part of the northern edge of their catchment area. The local authority area of Essex and its border with the local authority provides the western edge of the catchment area. Essex County Council also uses catchment areas in its admission arrangements and the catchment area for Hadleigh Junior School in Essex abuts that of the junior school.
15. The catchment area is about 1.6 miles across at its widest point so those living on the western edge of the catchment area would have a walk of about 1.5 miles to the junior school, or 1.2 miles for the objector. The nearest school to the western edge admitting to Y3 is Hadleigh Junior School which is in the local authority area of Essex to the west and less than a mile from the edge of the catchment area. Ofsted judged Hadleigh Junior School as good at its last inspection. The local authority told me that some houses in the catchment area for the junior school are less than two hundred yards from Hadleigh Infant School and it is not unusual for parents in this area to put Hadleigh Infant School as their first preference at Yr. Most such children then continue their education at Hadleigh Junior School. The next nearest school in the local authority area is Leigh North Street Primary School which is oversubscribed by those who live in its catchment area. Figure 1 provides a map of the area showing

relevant schools and their catchment areas.

Figure 1: a map of the area showing relevant schools and their catchment areas (note Leigh Infant and Junior Schools are now Leigh North Street Primary School).



16. The trust determined the arrangements on 20 January 2017. They say, “Those pupils attending West Leigh Infant School in year 2 are guaranteed a place at West Leigh Junior School for transfer to year 3 only, and there is no requirement to reapply as this will be an automatic process. There are 8 additional places for year 3.” The oversubscription criteria are applied to the additional eight places. The oversubscription criteria in the arrangements are:
- “Looked after children and previously looked after children;
 - Pupils who live in the catchment area served by the school and who have a sibling attending the school or West Leigh Infant School;
 - Pupils who live in the catchment area served by the school;
 - Pupils who live outside the catchment area served by the school and who have a sibling attending the school or West Leigh Infant School;
 - Pupils who live outside the catchment area served by the

school.”

17. The arrangements also say, “Distances will be measured using the Local Authority’s computerised measuring system. The pupils living closest will be given priority.” It is this last sentence which is the basis of the objection.

Consideration of Case

18. Paragraph 1.10 of the Code says, “This Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances.” For any school, there is likely to be more than one type of admission arrangements that satisfy the requirements relating to admissions. My jurisdiction is to consider whether the arrangements determined by the admission authority do satisfy those requirements.
19. I note that many admission authorities give higher priority to those who live closest to the school and that such arrangements are often believed to be fair as to give priority to those who live furthest away would mean that the children who might live next to the school had to travel to another school which may not be reasonable. However, each set of arrangements must be considered in the specific context of that school.
20. The context here includes the demand for places in the area, proximity of the junior school to the eastern edge of the catchment area, the location of the alternative schools and their catchment areas. I also note that it is desirable for children to walk to school, if that is possible, for health and environmental reasons.
21. The objector says that the current arrangements are not fair or reasonable so paragraphs 14 and 1.8 of the Code are particularly relevant. Paragraph 14 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, clear and objective.” Similarly, paragraph 1.8 says, “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”
22. Paragraph 1.13 is specific to distance and says, “Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the ‘home’ address will be determined and the point in the school from which all distances are measured.” This does not say whether priority should be given to those who live closest or furthest away and neither does any other part of the Code.
23. The Code permits the use of catchment areas and paragraph 1.14 says, “Catchment areas **must** be designed so that they are reasonable and clearly defined. Catchment areas do not prevent

parents who live outside the catchment of a particular school from expressing a preference for the school." There is no requirement that there is a catchment area for a school.

24. An admission authority would normally try to make sure that if a child lives in a catchment area for a primary school then they have a relatively good chance of being admitted to that school. Populations and the popularity of a school can fluctuate quickly but changing a catchment area requires consultation. It not possible for the catchment area always to reflect the number of children living in it who wish to attend that school in every year group. A catchment area therefore provides a higher priority for a school to those who live within it but not a guarantee.
25. I visited the area of the junior school as the context is important. I also studied maps showing the location of the schools in the local authority area and their catchment areas. This catchment area is unusual, but not unique, in that the junior school is on the edge of its own catchment area and that children living across the road to the school on its north eastern edge are actually outside of the catchment area. I note that in built up areas primary schools are often quite close to each other and the child populations will fluctuate with birth rates, employment opportunities, families moving in and moving out, families getting older and having no children living at home, new houses being built and many other factors. Schools also vary as to popularity and some parents may prefer a school that is outside their catchment area such as a school with a religious character.
26. The local authority told me that there has been an increase in children requiring a school place mainly due to high birth rates and movement into the area. The objector told me, "*Leigh on Sea has been featured in a number of national newspapers (The Times voted Leigh on Sea as the 4th best town to live in the country in 2015 and last year The Daily Mail voted Leigh on Sea as the happiest place to live in the UK).*" This will make it a popular area and may encourage inward migration.
27. It is not always possible, therefore, for an admission authority to be sure that the number of places available at a school will match the number of children living in the catchment area for the school year on year. If a school is oversubscribed there will be some families who will be disappointed. The trust provided me with the admission numbers for the junior school in recent years. The figures show that in most years the junior school admits 120 children from the infant school and a further eight children are admitted. For admission to Y3 in September 2017 there were 19 applications made for the eight places for which the oversubscription criteria are applied. Six of the places have been allocated to children who lived outside of the catchment area. This indicates that there were sufficient places for those who lived within the catchment area and wanted a place at the

school.

28. The local authority, which originally consulted on and defined the catchment area when the junior school was a community school, told me that the catchment area was designed like this for several reasons.
- a. The western edge of the catchment area is the same as the local authority boundary and while there have been discussions with Essex County Council about changing the catchment area boundary there has been no progress so far.
 - b. To the south of the junior school is another popular school, Leigh North Street Primary School, which was oversubscribed by those living in its catchment area and this was addressed some years ago by increasing the catchment area for the junior school.
 - c. A large section of the northern edge of the catchment area is Belfairs Woods through which there are no roads or safe walking routes to an alternative school. It is therefore a major physical barrier.
 - d. The location of the junior school is historical and there is now no scope of it being located elsewhere or an additional school built because of the density of the housing.
 - e. For those to the west of the local authority area this is their nearest school (in the local authority area). In order to give these families the best opportunity of admission to the junior school the catchment area boundary on its east side is right beside the junior school. This gives the children living on the western edge a higher priority than those who live close to the school to the east but who have other nearby schools in the local authority area.
 - f. The northern edge of the catchment area at this point by the school is the A13 or London Road which is a major route and a geographical boundary. The local authority told me that some of the nearest properties across the road are commercial; I noted that this is an area of mixed residential and commercial properties with residential streets nearby.
29. In this context the catchment area, where normally there are sufficient places for all those who live in the catchment area, seems reasonable for admissions in 2018. The local authority's forecasts show that there will be an increase in children living in the area and so a future risk of oversubscription by those living within the area. The local authority, working with the trust, is therefore considering consulting on options for the future and this could include looking at different ways of measuring distance.
30. The objector's key point is that it would be fairer and more reasonable for priority to be given to those living furthest away when there was oversubscription within the catchment area. The local authority has discussed the possibility of considering the approach put forward by the objector with the admissions forum, which is a

group made up of schools and other stakeholders in admissions. The minutes of the meeting of the forum said, *“Admission Forum members were clear that families living in catchment in the streets closest to the school had a reasonable expectation for admission to the school and expressed that to adopt (the objector’s) preferred measuring tool would create uncertainty. They understood the disappointment to families on the Borough boundary but did not feel offering from furthest to closest would resolve the difficulties of oversubscribed popular schools in high birth years.”*

31. In addition, the forum, *“felt that parents living on the Borough boundary within the West Leigh catchment have the opportunity to make two more preferences including schools not in the Borough, and therefore could choose Hadleigh Infant School as one of their preferences, which for many living on the boundary roads is actually closer than West Leigh Infant School.”* This latter comment relates to entry into YR. I note that such options may not be available for admission to Y3 when schools may already be full and only junior schools will have a year of entry and, in this area, priority is given to those attending a partner infant school. The additional eight places available at the junior school compared to the infant school appears to be addressing this factor.
32. To date there has been sufficient places at the junior school for those who live in the catchment area. This may change if there are higher numbers moving into the area or coming up from the infant school. It would appear, however, that once children are settled at a school they tend to stay with their friends and continue either into the linked junior school or within their primary school rather than seek a place at the junior school.
33. The objector has described a child:
- a. living on the western border of the catchment area,
 - b. not able to secure a place at the junior school because of oversubscription by those living within the catchment area, and
 - c. who wants a school within the local authority area.

This child will be allocated a place at a school that will be around two miles away. The local authority has explained that it encourages parents to state up to three preferences and in this situation to consider another school, when their child is to be admitted to reception, Hadleigh Infant and Nursery School, in the local authority area of Essex County Council and closer than schools in the local authority area. Most children will, once admitted to Hadleigh Infant and Nursery School, presumably then apply to continue at Hadleigh Junior School to stay with their peers.

34. Parents have the right to state preferences; they have no right for their child to attend a particular school. It is within the gift of each parent to state preferences that best meet their situation. It is my view that it is reasonable to expect parents to state preferences that

could avoid walking longer distances to school or driving to a school if that is what they wish to achieve. I recognise that it can be harder to secure a place when the child is in Y3 because primary schools may have filled up in reception and junior schools will normally give priority to those attending a feeder infant school. The data shows that this problem has not arisen for the junior school for those who live in its catchment area.

35. Section 14(2) of the Education Act 1996 places a duty on a local authority to secure sufficient schools for providing primary education and that those schools are available for their area. This does not place a duty to provide the schools in the local authority area; this would not be possible or reasonable in certain circumstances. A parent may prefer that their child attends a school within the local authority area but each parent is responsible for making their preferences on the basis of the information available to them. There is no right to a place within the local authority area although that may be what some parents want and is achieved in most cases. If a child has been admitted to another infant school, then the parent has the option to apply for the junior school. Since 2010 all children in the catchment area who have applied for a place at the junior school for Y3 have been admitted.

36. Those children who live more than statutory walking distance from a school at which they are allocated a place because there is no place available nearer will be provided with free travel to the school. The objector says that this is not good use of public funds and that this could be avoided if the distance criteria were changed. This is because those who live closest to the junior school are also closer to alternative schools in the local authority area than those who live on the western edge. This is true but is not sufficient, in my judgement, to render the method of measuring distance unreasonable. The situation also has not arisen for those applying for the junior school from within the catchment area.

37. The Department for Education provides statutory guidance, *Home to school travel and transport guidance*. This states a duty of local authorities is to provide free transport for all pupils below the age of eight years if their nearest suitable school is beyond two miles and arrangements must be made if a shorter route is deemed unsafe to walk. Statutory guidance therefore establishes that it is reasonable for a seven year old child to be expected to walk up to two miles on a safe route. I recognise that walking up to two miles can be arduous for young children, and their parents particularly if there are younger children. Similarly, I recognise that it is desirable that children walk to school as this is good for their health and that this is more likely to happen if the walking distance is shorter. I also note that there are other possibilities for travelling to school such as public transport, car sharing and cycling in some instances. All of these may be very difficult depending on a variety of factors but parents in this area do

have choices. The distances involved in this situation do not render the arrangements unreasonable.

38. When there is oversubscription a school there will be disappointed families who will not be able to be admitted to their preferred school. It is possible that one result is that siblings will be admitted to different schools making the practicalities of travel to and from school and other matters more difficult and complicated. This is not sufficient to render the method of giving priority on the basis of distance unfair or unreasonable. I note that the oversubscription criteria for the infant, junior and primary schools in the area do give priority for siblings of existing pupils. This reduces the likelihood of siblings having to attend different schools.
39. It is desirable for children to be able to socialise after and out of school and this is more likely if they attend the same school and live close to each other. This desirability is insufficient grounds to make the priority given to those who live closer to the school in the arrangements unreasonable.
40. The objector says that it would be more reasonable, in the context, to give highest priority to those who live furthest away in the catchment area. The local authority has said that this would mean that children living very close to the school could not be admitted and it would seem unfair. There are already children living very close to the junior school who are outside of the catchment area as they live across the London Road so the objector said that this is not a consistent argument. However, the reasons given for the design of the catchment area justifies this proximity of those who live outside of the catchment area.
41. None of the distances in this context are very far. There are options for parents when travelling to school, such as cycling, buses and car shares, as well as walking or driving. When parents are selecting their preferences they can give themselves options that suit their situation. All catchment area children have been admitted to the junior school so there has not been a problem of oversubscription from those who live in the catchment area. There could be other ways that the trust could prioritise when there is oversubscription within the catchment area but in this context, given all the factors described above, I judge the arrangements fair and reasonable for admissions in 2018 and do not uphold the objection.

Other matters

Applying for admission

42. The arrangements for the junior school say, "*Those pupils attending West Leigh Infant School in year 2 are guaranteed a place at West Leigh Junior School for transfer to year 3 only, and there is no*

requirement to reapply as this will be an automatic process.”
Paragraph 15d of the Code says, “*Published admission arrangements **must** make clear to parents that a separate application **must** be made for any transfer from nursery to primary school, and from infant to junior school.*” The arrangements do not comply with the Code in this regard.

43. In addition paragraph 1.7 of the Code says, “*All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children.*” The arrangements admit all children attending the infant school before considering any other application so looked after and previously looked after children are not given the highest priority. The arrangements do not comply with the Code in this regard.

Definition of looked after and previously looked after children

44. 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, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*” In the arrangements there is an explanatory note which defines what is meant by looked after and previously looked after children which says, “*Any reference to previously looked after children means children who were adopted (or subject to residence or special guardianship orders) immediately following having been looked after.*” This does not give a definition of looked after children. Paragraph 1.7 of the Code and its relevant footnotes provide definitions of looked after children and previously looked after children which are not used accurately or fully in the arrangements. This makes the arrangements unclear and so they do not comply with paragraph 14 of the Code.

Required information

45. The arrangements do not include certain information required by the Code. I list this below.
- a. Paragraph 1.8 of the Code says, “*Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.*” The arrangements do not include a tie-breaker and so do not comply with the Code in this regard.
 - b. Paragraph 2.14 of the Code says, “*Each admission authority **must** maintain a clear, fair and objective waiting list until at least **31 December** of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.*” The information on waiting lists does not make it clear that each added child will require the list to be ranked again in line with the published oversubscription criteria and so does not comply with the Code.

- c. Paragraph 2.17 of the Code says, “*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*” This is not provided and so the arrangements do not comply with the Code.

Summary of findings

46. The objection regards how priority is given on the basis of distance when the junior school is oversubscribed by those who live in the catchment area. I have taken into account all the matters raised by the objector and considered the local context. I have concluded that the options available to parents, the reasons for the design of the catchment area and the distances involved means that the method for giving priority to those who are closest to the junior school is fair and reasonable and I do not uphold the objection.
47. There are other matters which do not comply with the Code as above. The Code requires the arrangements to be revised to address these matters.

Determination

48. 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 2018 determined by the Portico Academy Trust for West Leigh Junior School in Leigh-on-Sea.
49. 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.
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.

Dated: 31 August 2017

Signed:

Schools Adjudicator: Deborah Pritchard