

## **DETERMINATION**

**Case reference:** ADA 2274, ADA 2275, ADA2293

**Objectors:** Luton Borough Council and Luton Admissions Forum

**Admission Authorities:** Challney Boys High School, and Denbigh High School, Luton

**Date of decision:** 25 July 2012

### **Determination**

**In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by the governing bodies of Challney Boys High School Luton and Denbigh High School Luton.**

### **The Referral**

1. Under section 88H (2) of the Schools Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by Luton Borough Council (the council) and Luton Admissions Forum (the forum) (the objectors) about the admission arrangements (the arrangements) for Denbigh High School and Challney High School for Boys (the schools). Both schools are academies with pupils aged 11- 16. Denbigh High School became an Academy in 2010. Challney High School for Boys became an Academy on 1 April 2011.
2. The objections are the same for both schools and it is for this reason that I have brought the determination for these cases together into one determination. The objections concern the introduction of a new admissions criterion for 2013 for each school that gives staff in the school priority for the admission of their children to the school before catchment area children.

### **Jurisdiction**

3. The terms of the Academy agreement between the proprietor 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 governing bodies, which are the admission authorities

for these schools, on that basis and the objectors submitted their objections to these determined arrangements on 30 May 2012 and 11 June 2012. I am satisfied 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' letters of objection dated 30 May 2012 and 11 June 2012;
  - b. each of the school's responses to the objection and supporting documents;
  - c. the council's composite prospectus for parents seeking admission to schools in the area in September 2012 (2013 has not yet been published);
  - d. a map of the area identifying relevant schools;
  - e. copies of the minutes of the meetings at which the governing bodies of the schools determined the arrangements; and
  - f. copies of the determined arrangements.

### **The Objection**

6. The objection is to the position of the new criterion prioritising children of staff before catchment area children. This is considered to be unfair (paragraph 14 of the Code) and unreasonable (paragraph 1.8 of the Code) by the council and by the forum.

### **Background**

7. The council would like to see catchment area children prioritised ahead of staff for the following reasons:
8. The council has operated an admissions system based on catchment areas for many years to try to ensure that school places are available for local children. In the main, every Luton child lives in the catchment of one high school and historically every high school has given top priority to catchment area children after children in care and those with a statement of special educational needs.
9. The council is concerned that this new criterion will mean that some parents will become disenfranchised because their child fails to gain a place at their local high school and they may find it difficult to secure a place at another high school. In contrast, the out of catchment children of

staff would be in the fortunate position of having a choice of either their catchment area school, or the school at which their parent works.

10. In recent years some children living in the catchment areas of both schools have been refused a place when they have applied on time and specified their catchment area school as a preference because the schools were at capacity. The council argues that by prioritising children of staff this issue would be exacerbated.
11. In 2010 Denbigh High School did not admit 30, and Challney Boys School did not admit 25, catchment area pupils. All catchment area pupils were admitted to both schools in 2011. In 2012 Denbigh High will admit 15 pupils over its planned admission number (PAN) in order to admit all catchment area pupils and Challney Boys School will admit 13 over its PAN but still leave 15 pupils from the catchment area without a place.
12. Pupil projections by the council show the catchment area numbers for Challney High School for Boys increasing each year from 185 in 2013 to 246 in 2017 against a PAN of 165. For Denbigh High School the numbers increase from 257 in 2013 to 285 in 2017 against a PAN of 224.

### **Consideration of Factors**

13. The Code at paragraph 1.39 enables admission authorities to give priority in their oversubscription criteria to children of staff in either or both of the following circumstances.
  - a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or
  - b) the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.
14. I have checked that the schools have both taken account of these circumstances and it is made explicit in their admission criteria.
15. The council argues that the admission arrangements must be fair (the introduction to the Code paragraph 14) and reasonable (paragraph 1.8). Paragraph 14 states that "...admission authorities **must** ensure that that the practices and 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 a school will be allocated". I can find no fault with the clarity and objectivity of the criteria and I doubt that any parent will not understand the arrangements. The objection concerns the fairness of the criterion. The Code at paragraph 1.9f and 1.39 permits schools to prioritise the children of staff, the objectors contend that it is not fair or reasonable to do so. They refer to the legitimate concerns of the catchment area parents who may not obtain a place if this criterion is used. In response, the schools argue that the number of children involved here is very small, possibly one or two a year. Both Schools have reaffirmed their commitment to the accommodation of

catchment area children. The Code allows this criterion to be used, the numbers involved are small and the potential benefits for a school in recruiting and retaining staff will balance the small number of places unavailable to catchment area children.

16. In this particular case, the issue is whether admitting the children of qualifying staff will make a significant difference to the growing cohort size year on year. The schools argue that the probability of this is low since they know who has been both on the staff for two years and who has a child of secondary school age who might want to take advantage of this new criterion. I have no reason to disagree with this statement. There is an additional possibility that the staff qualifying for this scheme live within the catchment area of another Luton school. If their children are admitted to their employing school, a place will be released in the home catchment area school. Given each school's declared commitment to catchment area pupils and willingness in the past to admit over their PAN in order to accommodate catchment area children, the problem created by admitting these children appears to be a small one and one which the schools could help to manage if they so chose.
17. It is clear from the figures given above that these schools are oversubscribed. Looking at the figures for 2011 provided in the council's admissions booklet, it could be seen that of the 12 high schools, six admitted to their limit and the remaining six had between them 257 spare places. The council will need to consider the mismatch between places available and numbers within the respective catchment areas as numbers grow and make some plans to manage the growing numbers of catchment area children over the next few years. It will need to do this regardless of this change to the admission arrangements at these schools. While I can understand the argument made by the objectors I am not persuaded that the use of this criterion in this case is unfair or unreasonable.

## **Conclusion**

18. The Code states in paragraph 1.39 that admission authorities may give priority to staff in their admissions criteria. The objectors argue that by doing this it will exacerbate the situation where catchment area pupils cannot gain access to their catchment area school. However, the schools have reaffirmed their commitment to accommodating catchment area children and the numbers involved if this criterion is introduced in each school are small. If this criterion were not implemented, there are still likely to be catchment area children who cannot gain access to their catchment area school because of the increasing numbers of secondary age pupils numbers in the area. On these grounds I am not persuaded that introducing this criterion can be described as unfair or unreasonable. As a result I do not uphold the objections made.

## **Determination**

19. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by the governing bodies of Challney Boys High

School, Luton and Denbigh High School, Luton.

Dated: 25 July 2012

Signed:

Schools Adjudicator: David Lennard Jones