

DETERMINATION

Case reference: ADA/002323

Objector: A parent

Admission Authority: Hatcham College

Date of decision: 16 July 2012

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 (admission authority).

I have also considered the arrangements in accordance with section 88I (5). I determine that in three respects relating to nodes and waiting lists, as set out in paragraph 10 of this adjudication, the arrangements do not conform with the requirements relating to admission arrangements.

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 as quickly as possible.

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 a parent (the objector), about the admission arrangements (the arrangements) for the secondary school part of Hatcham College (the School), an academy in the Haberdashers' Aske's Federation, for September 2013. The objection is, in effect, that the arrangements disadvantage children from a particular social group.

Jurisdiction

2. 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 Academy on 2 April 2012. The objector submitted the objection to these determined arrangements on 26 June 2012. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objector's letter of objection dated 26 June 2012, together with supporting documents;
 - b. the School's response to the objection and supporting documents;
 - c. Lewisham Council's (the Council) response to the objection of 11 July 2012; and
 - d. a copy of the determined arrangements.

The Objection

5. The objector claims that giving priority to those children living closest to the School (measured to the nearest of two nodal points, the main entrance in Pepys Road or the main entrance in Jerningham Road) unfairly favours families living near the school, and disadvantages those living further away. The objector says that Jerningham Road, in London SE14, consists of homes indicative of greater prosperity, and that giving priority to children from this area disadvantages children living in less advantaged areas, including areas of social housing. The objector claims that this discourages social mobility.

Background

6. The School became an academy in 2005, and, with the addition of a nursery and primary school, now provides for pupils aged 3 to 18 years. The school has stated that it is 'a heavily oversubscribed with an annual application ratio for secondary transfer of at least 9 – 1'. In allocating secondary places, the School gives priority to children transferring from the primary part of the academy, includes aptitude in music as one of its oversubscription criteria, but admits most additional children on the basis of nine ability bands. The school has amended its arrangements several times since its inception as an academy, most notably from the point of view of this objection to include a second nodal point for distance measuring in prioritising within bands.

Consideration of Factors

7. Paragraph 1.8 of the Code stipulates that admission arrangements must not unfairly disadvantage, either directly or indirectly, children from particular social groups. I have therefore given careful consideration to the objection that the arrangements unfairly disadvantage children from outside the immediate area of the school who may come from less affluent areas, including social housing. It is clear that, where any school uses home-to-school distance as an oversubscription criterion, there will be areas of housing, including some that are less prosperous, from where children do not in practice gain admission. So a balance sometimes has to be struck with the principle of giving places at schools to local children which many parents

support (and which the school has supported by its previous decision to replace random selection by home-to-school distance measuring).

8. I find in this case that the school has taken conscious steps to avoid unfair social discrimination. Levels of developed ability sometimes show a correlation with family prosperity. So the principle of banding ensures that children across a wide spectrum of ability are enabled to attend a school, and can provide for a mix of families from different social groupings to be represented in a school. Secondly, in response to some newspaper publicity in 2010 and an equality analysis report commissioned by the Council in relation to another issue, the school has for 2013 admissions added a second node for measuring, so that a node now exist at the main entrances to the school's Jerningham Road site (which houses Years 7 to 9), which is around half a mile from the existing node at the main entrance to the Pepys Road site (which houses Years 10-13). The school has explained how the Council's report and Multiple Deprivation Lower Super Output Area data indicated that the level of deprivation was greater in the Jerningham Road area than in the Pepys Road area. I recognise that this does not imply that there are areas of greater deprivation further afield, but, as indicated above, also recognise that, when distance measuring is employed, it is inevitable that some such areas will be among the areas from which children will find it difficult to obtain places.

9. I have not found grounds for the objection relating to social discrimination, and am not upholding the objection.

Other Matters

10. I have noted three aspects of the arrangements that do not comply with the Code in terms of a lack of clarity or in other respects, as set out below.

- a. The use of the expressions 'The 1st node' and 'The 2nd node' in paragraph 17 of the arrangements could be understood as indicating some precedence in the allocation of places by reference to each node. In order to comply with section 88K of the Act, the wording needs to be modified for the sake of clarity, and I suggest that these expressions could be replaced by 'One node' and 'The other node' or another expression that avoids any hint of priority for one node over the other.
- b. I believe it is legitimate to say in paragraph 24 of the arrangements that a child who has not sat the banding test and whose parents wish them to transfer from other secondary schools should have a lower place on the waiting list than a child who has, since such a child has not fulfilled the overarching criterion relating to banding. However, paragraph 24 also stipulates that children wishing to transfer from other secondary schools but for whom the School was not their highest preference should have a lower priority (unless there are exceptional circumstances). However, giving a lower priority to some children implies giving higher priority to other children on this basis. This is contrary to paragraph 1.9c of the Code, which prohibits giving 'extra priority to children whose parents rank preferred schools in a particular order'. In order to comply with section 88K of the Act, this limitation

should be removed.

- c. I find that the condition applied to these two exceptions, 'unless there are exceptional circumstances', does not fulfil the requirement of paragraph 1.8 of the Code for objectivity and clarity. In order to comply with section 88K of the Act, this phrase should be removed or else replaced with measurable factors (such as references to families who have recently moved into the area and/or medical need).

Conclusion

11. I have concluded that, although disadvantage is inevitable to some families when a school is oversubscribed, the disadvantage suffered in this case is not unfair and does not relate to any particular social group. I believe that, while retaining the principle of providing education for local children, the school has taken reasonable steps to ensure a mixed intake, particularly by using banding and more recently by adding a second node for measuring to ensure more balanced availability. I am therefore not upholding the objection.

12. I have, however, identified three other respects in which the arrangements do not comply with the requirements of the Code. In accordance with paragraph 3.1 of the Code, the school must as quickly as possible make the amendments to its arrangements for admissions in 2013 described in paragraph 10, above.

Determination

13. 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 (admission authority).

I have also considered the arrangements in accordance with section 88I (5). I determine that in three respects relating to nodes and waiting lists, as set out in paragraph 10 of this adjudication, the arrangements do not conform with the requirements relating to admission arrangements.

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 as quickly as possible.

Dated: 16 July 2012

Signed:

Schools Adjudicator: Canon Richard
Lindley