



DETERMINATION

Case reference: ADA2587, 2588, 2596, 2620, 2641 & 2642

Objectors: A number of parents

Admission Authority: The Academy Trust for Hinchley Wood School

Date of decision: 4 June 2014

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 for admissions in September 2015 determined by the academy trust for Hinchley Wood School in Surrey.

I have also considered the arrangements in accordance with section 88I(5). I determine that in relation to the definition of looked after and previously looked after children 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 School Standards and Framework Act 1998, (the Act), objections have been referred to the adjudicator by a number of parents (the objectors), about the admission arrangements (the arrangements) for Hinchley Wood School (the school), an academy school for pupils aged 11 – 18 in the Elmbridge district of Surrey for September 2015. All the objections are to the introduction of an element of priority for admission for children who have attended one of four named feeder primary schools and who live in the school's catchment area. One of the objections also states that admission authorities may name only a single feeder school and that the arrangements discriminate against children who have attended primary schools with a religious character.

Jurisdiction

2. The terms of the funding agreement between the academy 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 academy trust, which is the admission authority for the school, on that basis on 18 March 2014.
3. The objectors submitted their objections to these determined arrangements on various dates between 1 April and 20 May 2014. 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' forms of objection dated 1 and 22 April 2014, 12 and 20 May 2014; and subsequent email comments from a number of the objectors;
 - b. the school's responses to the objection and supporting documents dated 25 April 2014 and 13 and 19 May 2014;
 - c. the comments of Surrey County Council, which is the local authority (LA), for the area on the objection dated 17 April 2014 and 20 and 22 May 2014 and supporting documents;
 - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
 - e. maps of the area identifying relevant schools and showing the catchment areas for the four Elmbridge secondary schools;
 - f. confirmation of when consultation on the arrangements last took place, together with copies of the consultation documents and responses to the consultation;
 - g. copies of papers for and the minutes of the meeting of 18 March 2014 at which the academy trust determined the arrangements; and
 - h. copies of the determined arrangements for both 2014 and 2015 including maps of the catchment areas.

The Objection

6. All the objections are concerned with the introduction of an element of priority for admission to the school for children who have attended one of four named feeder primary schools and who also live in the defined catchment area of the school. The objectors consider that this is unfair to children who live in the catchment area but who attend a primary school which is not one of those named as a feeder. They argue that priority should be based on distance from home to school and that children should not have less of a chance of securing a place at what might be their closest secondary school because of the primary school they attended. One of the objections also considers that naming more than one feeder primary school conflicts with the provisions of paragraph 1.15 of the Code and that as the feeder schools are not designated as schools with a religious character while a number of other schools in the area are so designated this discriminates against children who attend schools with a religious character. Two objections also suggest that if the objections are not to be upheld, then the new arrangements should be introduced only some time into the future and, specifically, not until children who have already started key stage 2 or will do so in September 2014 have transferred to their secondary schools.

Other Matters

7. In the course of reviewing the arrangements, I noted that the definition of looked after and previously looked children did not appear to conform with the Code.

Background and Consideration of Factors

8. Hinchley Wood became an academy in February 2012. It has yet to be inspected by Ofsted but its predecessor school was inspected in September 2011 and found to be outstanding. The school has a published admission number (PAN) of 210 for Year 7 (Y7). The admission arrangements for the school for 2014 and 2015 including maps showing the catchment area are easy to find on the school's website under the information tab which is accessed from the homepage.
9. Hinchley Wood is one of four secondary schools serving the Elmbridge district of Surrey. Each of the four secondary schools has since 2011 had an exclusive (in the sense that they do not overlap with each other) catchment area. The arrangements for the schools have included an element of priority for those who live in the catchment area over those who do not. Thus for Hinchley Wood, the oversubscription criteria for Y7 up to and including September 2014 could be summarised as follows:
 1. Looked after and previously looked after children;
 2. Exceptional medical and social needs;

3. Siblings of pupils at the school;
 4. Children resident in the catchment area;
 5. Any other children.
10. The LA's and the school's view is that initially these arrangements generally worked and served local parents well. However, the number of children resident in Hinchley Wood's catchment area and seeking a place at the school has increased. The school reports that at the beginning of September 2013, 17 children who lived in the school's catchment area remained on its waiting list.
11. The school's admission arrangements up to and including September 2014 provided that where the school reached and exceeded its PAN in any oversubscription category, priority would be given to those living nearest to the school. The catchment area is an irregular shape but generally it is longer than it is wide. The northern boundary follows the river Thames with the result that the northwest of the boundary is further north than the northeast. The school is located slightly nearer to the north of the catchment area than to the south and slightly to the western side. All this has meant that those living in the far south or far northwest of the catchment area would have less of a chance of gaining a place than other catchment area children as they would live further away from the school than other children also living within its catchment area.
12. In addition, Claygate village in the far south of the catchment area fell partly within the school's catchment area and partly within the catchment area of one of the other Elmbridge secondary schools – Esher Church of England High School. Claygate children who lived in the part of the village within Esher High School's catchment area were offered places there but many of those living in the part of the village falling within Hinchley Wood's catchment area could not be offered places at Hinchley Wood.
13. As long ago as 2009, a campaign was established (Claygate Class Action) to improve the position of children living in Claygate who – if they did not secure a place at Hinchley Wood or Esher High School as the case may be – could face very long journeys to secondary school, not least as the nearest alternative schools were also fully or oversubscribed with children with a higher priority for places. It is worth noting that for children living in the east of Claygate in particular, Hinchley Wood is their nearest secondary school.
14. Against this background, the school decided to change its arrangements. The school initially approached the Education Funding Agency (EFA) seeking permission to vary its arrangements for 2014 by means of an in-year variation. This was rejected by the EFA on the grounds that the school's circumstances had not changed significantly enough to justify such a variation. The EFA instead advised that if the school wished to change its arrangements it should do so through the

normal process for changing arrangements. The EFA's decision was based on its assessment of whether the school's circumstances had changed significantly enough to warrant a change to the admission arrangements without the normal requirements for consultation before arrangements are changed. That decision cannot be taken as a judgement on the arrangements determined by the school for 2015.

15. The school consulted on proposed arrangements for 2015. The consultation ran from 13 December 2013 to 21 February 2014. This period of ten weeks is greater than the period required by the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations). The school placed advertisements in local papers and held a number of meetings with local schools. The proposed arrangements were displayed on the school's website for the period of the consultation. A consultation paper and response form was produced and was widely circulated including to other secondary schools, primary schools and the local Catholic and Church of England dioceses.
16. The proposed arrangements for Hinchley Wood involved making changes to the catchment area (by removing a small section in the east and incorporating the whole of Claygate village in the south) and dividing what was oversubscription criterion 4 into two. The proposed arrangements can be summarised as follows:
 1. Looked after and previously looked after children;
 2. Exceptional medical and social needs;
 3. Siblings of pupils at the school;
 4. Children:
 - 4a resident in the catchment area who has attended one of the named feeder schools
 - 4b resident in the catchment area who has not attended one of the feeder schools;
 5. Any other children.
17. Where the school was oversubscribed in any of the above categories, priority would be given to those who live closest to the school. The arrangements also included a clear statement that children with statements of special educational need (SEN) which named the school would be admitted.
18. The school's decision to change its arrangements was not made in isolation. In parallel, the admission authority for Esher High School consulted on increasing its PAN from 210 to 240 and changing its catchment area also to cover the whole of Claygate village. Thus Claygate village would fall into the catchment areas of both Esher High School and Hinchley Wood School. I have been informed that Esher

High School agreed to this change only on the basis that Hinchley Wood would adopt arrangements including feeder primary schools. This was because Esher High School – even with its increased PAN – did not consider that it could accommodate all children from Claygate village as well as all others living in its catchment area. Esher High School was accordingly concerned that some children from Claygate village should be able to secure places at Hinchley Wood.

19. The consultation resulted in 1,444 individual responses and a petition with a total of 938 signatures. Some of those signing the petition also sent individual responses. The great majority of responses which made any comment supported the proposed minor changes to the definition of looked after children, changes to the notes and to the arrangements for the admission of students to Year 12.

20. The proposed change to split oversubscription category 4 into 4a and 4b generated a much more mixed response as the tables below show.

Individual responses

Criteria	Agree	Disagree	No opinion
4a Feeder Primary Schools and Catchment area	1116	242	0
4b Catchment area	1159	202	35

Petition

Criteria	Agree	Disagree	No opinion
4a Feeder Primary Schools and Catchment area	0	938	0
4b Catchment area	0	938	0

21. The proposals were supported by the LA, the four proposed feeder primary schools and Esher High School. The aspect of the proposals relating to the introduction of named feeder primary schools was not supported by a number of other primary schools in the area or by the Parochial Church Council and Rector of the Anglican Parish of Esher. The Anglican Guildford diocese urged reconsideration of the feeder schools.

22. I do not know how many of those who signed the petition also sent individual comments so I cannot give an arithmetical account of the numbers in favour of and numbers against the proposed changes. In any case, while the governing body was required to have regard to the responses to consultation and to take into account both the numbers

for and against the proposals and the strength of their respective arguments, it was for the governing body to make its decision and in doing so it was not bound by the numbers in favour or against.

23. The school's governing body met on 18 March 2014 purely to discuss the arrangements. It is clear from both the briefing paper provided for that meeting and the record of the meeting that the governing body considered carefully the options before it, before deciding to determine as the arrangements for 2015 those that had been consulted on. The arrangements were subsequently published on the school's website along with a press notice explaining why the governing body had made the decision it had and advice on how to complain to the adjudicator.
24. In assessing whether the arrangements conform with the Code, I will deal first with the objection to the inclusion of more than one feeder school. The objection stated that paragraph 1.15 of the Code provided that a school could name one school as a feeder school. Paragraph 1.15 says:

“Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.”
25. The paragraph as a whole makes clear that an admission authority may have more than one feeder school within its oversubscription criteria provided that the other conditions of transparency and reasonableness are met. I do not accordingly uphold this aspect of the objections.
26. The objections to the introduction of an element of priority for children who have attended one of four feeder primary schools have argued that it is unfair to give priority to children on this basis over those who may live closer to the school but have attended a different primary school. The argument is essentially that priority should be based on distance.
27. In fact, the oversubscription criteria for Hinchley Wood up until September 2014 were not entirely based on distance. As outlined above, they were based on residence in the catchment area, with distance from the school within the catchment area as a tie-breaker to be used if the school reached and exceeded its PAN among children who lived in the catchment area. This meant that a child living within the catchment area had a higher priority than one who might live closer to the school but outside the catchment area (leaving aside any claim to higher priority such as being looked after or having a sibling at the school). As the catchment area is not circular and the school is not at its centre, there would be people living closer to the school but outside its catchment area than some of those living within the catchment area.

28. The use of catchment areas as in Elmbridge can help to ensure that all children can gain access to a school that is reasonably close to their home. Catchment areas can be particularly useful when the location of schools and distribution of populations in an area means that using distance alone would result in some children not being able to gain entry to any local school.
29. The difficulty that has now arisen is that the school cannot accommodate all who live in its catchment area and who would like a place at the school. In these circumstances, some of those who live in the catchment area and for whom Hinchley Wood is their local secondary school will not be able to go there. The school is clearly a very good and very popular school; moreover, the number of primary aged pupils in the area has grown – as shown by the number of additional classes and increases to PANs in local primary schools.
30. There are only so many options when a school with a catchment area cannot take all of its catchment area pupils. These are:
- a. To expand the school;
 - b. To reduce the catchment area;
 - c. To give a higher priority to some catchment area children compared to others;
 - d. To abandon the catchment area approach;
 - e. Some combination of the above.
31. Not all of these options will be practicable in all circumstances. It may well not be possible to expand a school, certainly not very quickly. Any of the other options will be likely to mean that some children have less of a chance of gaining a place at the school. Hinchley Wood School has opted for a combination of b. and c.
32. Up until now, the catchment area children who were less likely to secure a place at the school were those living in the far south (particularly in Claygate village) and northwest of the catchment area as priority within the catchment area was then subject to a further test of distance from the school within the bounds of the catchment. As noted above, this had led to concerns from those parents whose children were less likely to gain a place.
33. The Code allows admission authorities to give priority to children who have attended particular named feeder primary schools, provided that the selection of feeder schools is transparent and made on reasonable grounds. I must consider, therefore, whether these requirements have been met in this case. I have also considered the school's arrangements against the core requirements of the Code set out in paragraph 1.8 that oversubscription criteria **must** be reasonable, clear, objective and procedurally fair.

34. I have considered first whether the selection of feeder schools is transparent and with this whether it is clear and objective. The feeder schools are all named in the arrangements. They are all located within the school's catchment area and no other state-funded primary school with Y6 pupils is located within the catchment area. They are the schools from which the greatest numbers of pupils have progressed to Hinchley Wood over the past five years. The school has told me that the four schools have worked closely with Hinchley Wood as part of the Hinchley Wood Partnership since 2004. The LA has supported the selection of feeder schools and endorsed the school's reports of the partnership between the schools. I find that the selection of feeders is transparent, clear and objective.

35. I have considered next whether the selection of feeder schools is reasonable and whether it is fair.

36. A key point made by the objectors is that the school will fill with children joining from its feeder primary schools and will not be able to admit any other children. They argue that this is not fair as other children living close to the school will thus have no chance of securing a place. The PANs for the four feeder schools sum to 270. The PAN for Hinchley Wood is 210. At first glance, it could therefore seem that the arrangements would not allow the school to accommodate all those from the feeders let alone other local children. This might well not be reasonable or fair. However, the arrangements give priority under criterion 4a only if children have attended one of the feeder schools and live in the catchment area. The LA has provided me with relevant information about children currently in Year 5 (Y5) (which is the first year group which will be affected by the new admission arrangements) and this is set out below:

School Name	PAN	Total Y5 Pupils	Y5 in Catchment
Claygate Primary	60	58	47
Hinchley Wood Primary	60	59	51
Long Ditton St Mary's C of E (Aided) Junior	60 (was 45 when these children joined)	44	38
Thames Ditton Junior	90	91	79
Total	270	252	215

37. The total of 215 is still above Hinchley Wood's PAN of 210. However, these figures include all of the children who attend Claygate Primary and live in the new expanded catchment shared with Esher High School. I think it reasonable – on the basis of what has happened in past years – to consider that at least 20 of these children will move on to Esher High School. That would leave 195 children at the feeder

primary schools living in the catchment area and who might be expected to seek a place at Hinchley Wood. There may also be some children with statements of SEN to be accommodated at the school. In addition, any looked after or previously looked after children and siblings who apply will have priority above children from feeder schools as will any children admitted under the criterion of exceptional circumstances. It is highly likely that a significant proportion of such children will have attended the feeder schools but others will not have done.

38. In order to gain the best possible understanding of the number of children attending a feeder school and living in the catchment area who are likely to seek a place at the school, I have looked also at the pattern of preferences expressed and places offered in the past few years. Between 135 and 154 places at Hinchley Wood have been allocated over the past few years to applicants from the feeder schools. 92 of those attending the feeder schools and resident in the new catchment area gave Hinchley Wood as their first preference school for September 2014.
39. Using information about the characteristics of those who have applied for places at Hinchley Wood in 2014 and the arrangements for 2015, the school has also modelled the likely impact of its new arrangements. This modelling suggests that the school would offer the following places:

Oversubscription category	Number of places
Statements of SEN	6
Looked after and previously looked after children	0
Exceptional circumstances	3
Siblings	81
In catchment and attended feeder	99
In catchment and did not attend feeder	21

40. The school estimates that this would mean that children who had not attended a feeder school but lived within the catchment area and up to around .84 of a mile from the school would be able to gain a place there.

41. Taking account of all this information, I consider that it is likely that in September 2015 Hinchley Wood School will be able at least to offer places to all those satisfying its oversubscription criteria 1 to 4a and to some who fall within criterion 4b. I recognise that numbers of pupils in the area are growing and that the situation may be different in later years. Indeed, the school has itself noted that it may well need to review its arrangements again in the future. However, I am dealing here with the arrangements for 2015.
42. The objectors are concerned that some children will be forced to travel up to 90 minutes to reach a school. Those in favour of the new arrangements make the point that this is the same predicament facing those who live in Claygate at the moment. It was suggested by some during the consultation on the arrangements that this problem could be resolved purely by Esher High School's expansion of its catchment area. Esher High School and the LA's response to this was that Esher High School cannot accommodate all the Claygate village children and still provide the rest of its catchment area, and figures provided by the LA substantiate this argument.
43. On the basis of all the information available to me and taking account of all the arguments made to me by the objectors, the school and others, I consider that in the circumstances of this school, the introduction of priority for children who have attended certain feeder primary schools and who live in the school's catchment area is reasonable and fair. I consider that – within a catchment area – it can be as reasonable to give additional priority to those who have attended particular feeder schools as to give additional priority to those who live closest to the school. One of the objections stated that arrangements “should not disadvantage any children for whom this is their local secondary school.” Unfortunately, this school cannot accommodate all those children for whom it is the local secondary school and who would like a place there. I do not uphold this aspect of the objections.
44. One of the objections argued that the selection of feeder schools discriminated against children who had attended a primary school with a religious character. This was on the grounds that the selected feeder schools did not have a religious character whereas other local primary schools did have a religious character. In fact, one of the four schools (Long Ditton St Mary's) is a voluntary-aided school with a Church of England religious character. I have set out above my judgement that the selection of feeder schools has been made on transparent, clear and objective grounds. As noted above, the school has selected as feeders all the state funded schools with Y6 pupils in its catchment area. It is reasonable to limit the feeder schools in this way. I do not consider that the selection of feeder schools discriminates against those who have attended a faith based primary school and I do not uphold this aspect of the objections.

45. One of the objections noted comments in the Chief Adjudicator's report in 2013 that arrangements for admission to Reception Year at primary schools that gave priority to children who had attended particular nursery provision had been found to be unfair to other local children. The objection suggested that if this was unfair it was by extension unfair for secondary schools to be able to give priority to children who had attended particular primary schools. It is the case, of course, that all determinations made by adjudicators are based on the individual admission arrangements before them. However, the following comments may be helpful. Nursery provision is different from primary provision as it is not compulsory and admission to nursery provision is not governed by the Code. Admission arrangements for primary education must comply with the Code and the Code specifically gives permission for there to be one or more named feeder schools, and sets out the terms to be met in selecting a feeder school or schools.
46. Some of the objectors have suggested that if the arrangements are to change, this should happen over a longer period so that those who are already in the later years of primary school should not be affected. The Act and the Code set out the requirements and timetable for admission arrangements to be consulted on and determined. There is no provision for the school yet to determine arrangements for years later than 2015. In addition, my jurisdiction in this case is limited to upholding, not upholding or partially upholding the objections to the arrangements for 2015. I cannot make a determination about arrangements for 2016 or later years.
47. I want lastly to address the definition of looked after children used in the arrangements. The arrangements are clear that looked after children and previously looked after children are to have the highest priority in the oversubscription criteria as required by paragraph 1.7 of the Code. However, the definition of looked after children used by the school is not quite accurate. In the main body of its arrangements, the school defines looked after children as "children in public care" and it expands on this in the notes as follows:
- "Children who are registered as being in the care of a Local Authority in accordance with Section 22 of the Children Act 1989, eg fostered or living in a children's home at the time an application for school is made..."
48. In fact, a looked after child is a child who is in the care of local authority or who is being provided with accommodation by a local authority. The definition used by the school is accordingly not quite as comprehensive as it needs to be. I should add that this is a technical breach of the Code which can be easily rectified. I have no doubt that the school does in fact give the highest priority to all those entitled to it.

Conclusion

49. I have considered carefully all the points made by the objectors, by the school and LA and others. I have tested the school's arrangements against the relevant specific provisions of the Code and against the Code's broad principles. I have concluded that, for the reasons given in this determination, the school's decision to give a greater element of priority to children who live in its catchment area and have attended one of four named feeders schools than to those who live in the catchment area but attended other schools is reasonable and fair in the circumstances of the area. I do not uphold the objections.
50. I have determined that the arrangements do not conform with the requirements of the Code in relation to the definition of looked after and previously looked after children.

Determination

51. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements for admissions in September 2015 determined by the academy trust for Hinchley Wood School in Surrey.
52. I have also considered the arrangements in accordance with section 88I(5). I determine that in relation to the definition of looked after and previously looked after children the arrangements do not conform with the requirements relating to admission arrangements.
53. 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: 4 June 2014

Signed:

Schools Adjudicator: Shan Scott