



**DETERMINATION**

**Case reference:** ADA3060

**Objector:** A member of the public

**Admission Authority:** Queens Park Infant Academy, Bournemouth

**Date of decision:** 13 May 2016

**Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for admission in September 2017 determined by Queen's Park Infant Academy, Bournemouth.**

**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 member of the public, the objector, about the admission arrangements (the arrangements) for Queen's Park Infant Academy (the school), an infant school with age range four to six, for September 2017. The objection is that the school failed to carry out the consultation required before making a change to the arrangements; that the replacement of the existing catchment area with straight line distance for use within the arrangements is unfair and that the use of birth dates in the oversubscription criteria is unfair.
2. The admission authority is the Queen's Park Infant Academy Trust. The local authority (LA) for the area in which the school is located is Bournemouth Borough Council.

**Jurisdiction**

3. The terms of the Academy agreement between the Queen's Park Infant 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 governing body, which is the admission authority for the school, on that basis. The objector submitted their objection to these determined arrangements on 8 March 2016. The objector has asked to have his or her 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 by providing both 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.

### **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 objection form dated 8 March 2016 and subsequent comments;
  - b. the school's response to the objection and supporting documents;
  - c. the comments of the LA on the objection and supporting documents;
  - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
  - e. a map of the area identifying relevant school;
  - f. copies of the minutes of the meeting at which the school's governing body determined the arrangements; and
  - g. a copy of the determined arrangements.

### **The Objection**

6. The first part of the objection is that the consultation required by paragraphs 1.42 to 1.44 of the Code was not carried out properly before a decision to change the arrangements was made.
7. The next part of the objection is that the new arrangements, which remove the existing catchment area and replace with a straight line distance measurement do not comply with paragraph 1.8 of the Code because they are unfair to some parents. The objector states that all the other schools in the area have a catchment area and give priority to those who live in them. There are some families who will find themselves without priority for this school by distance and not having a priority in any other school because they do not live in the catchment area. It is unfair that these families should find themselves with no priority for a school.
8. Lastly, the objector observed that the use of birth dates in the oversubscription criteria is unfair and does not comply with paragraph 2.17 of the Code.

### **Background**

9. The school is an infant school and has a published admission number

of 120. It shares a site with a junior school, to which most of the children transfer when they reach Year 3. The infant and junior schools are both academies but within different trusts. The school was inspected in 2013 and judged to be good.

10. In 2008 Townsend Primary School was a two form entry community primary school with a nursery class that closed due to low pupil numbers and the standard of the education it provided. When the school closed, the existing pupils were allocated places at Queen's Park Infant Academy and two other schools. As a result of the closure of Townsend Primary School, the catchment area of Queen's Park Infant Academy was expanded to include an area previously served by the closing school. In 2013 a new academy opened on the site of the closed school. This new school does not have a catchment area and gives priority for admission on the basis of the distance between children's homes and the school.

11. Queen's Park Infant School is oversubscribed and in 2015 there were 422 applications for the school of which 157 were first preferences. 120 children were admitted, 41 on the basis of both sibling and catchment area and 79 on the basis of catchment area. There were six admissions appeals and these were all rejected.

12. The 2016 arrangements were unchanged from the previous year and comprise the following oversubscription criteria:

- I. Looked after and previously looked after children
- II. Children with siblings in the school and who live in the catchment area
- III. Children who live in the catchment area
- IV. Children with siblings in the school who live outside the catchment area
- V. Children who live outside the catchment area

Distance is used as a means of prioritising within a criterion.

13. The 2017 arrangements are different and have three oversubscription criteria:

- I. Looked after and previously looked after children who are born between 1 September 2102 and 31 July 2013
- II. Children with siblings in the school and who are born between 1 September 2012 and 31 July 2013
- III. Other children prioritised by distance who are born between 1 September 2102 and 31 July 2013.

## **Consideration of case**

14. I shall begin by considering the consultation process that was used and whether or not it complied with the requirements set out in paragraphs 1.42 – 1.44 of the Code. Before I do this, it is important to say that following my requests for further information, the school informed me that it recognises that it did not consult as required and that as a result it has to review aspects of its arrangements. I welcome this response and the following paragraphs will serve as a list of matters that need to be addressed.

15. The school took the decision to change the arrangements on 8 October 2015 following a proposal discussed at a Curriculum Committee meeting on 24 September 2015. The minutes of the meeting show no evidence that there was any discussion about the consultation that is required before changes can be made to admission arrangements. However, there must have been some discussion either then or subsequently because there is evidence that some consultation took place. When it consulted, the governing body did not follow paragraph 1.43 of the Code and set a consultation period. Without a defined consultation period it becomes difficult to know when to arrange a meeting to review the responses and consider whether or not the proposals should be implemented in the light of the responses made, and potential respondents do not know when they need to have responded by in order that their views can be considered.

16. The LA circulated the revised arrangements as part of a composite consultation process highlighting those schools proposing to make changes and directing interested parties to the individual school websites. In addition, the school posted a notice on its website that announced there was a consultation on changing the arrangements. This notice did not explain why the change was being proposed and did not give a deadline for responses. Interested parties were directed to the LA website if they wished to respond to the consultation. Parents and prospective parents were not informed through other communication channels about the notice. This notice would only have been seen by those who visited the school website and then went to the page concerning admissions and then on to the page displaying the notice.

17. The requirement in paragraph 1.44 of the Code to consult with parents of children between the ages of two and eighteen means that the school must make an effort to contact prospective parents. The method is not prescribed but examples of how other schools have undertaken this include posting notices in local medical centres, playgroups and nurseries; publishing the proposals in local newspapers and magazines; or asking playgroups and nurseries to inform their parents about the proposals. I have not found evidence of such positive steps as these and as a result parents have not been well informed about the proposal for change. When I asked the school to provide more evidence of its consultation process it declined to do so and said that it recognised that the consultation had not followed requirements.

18. The school's governing body is the admissions authority and must ensure that it has fully complied with the Code and that all the parties are properly consulted. In this case I have found no evidence that a consultation process was planned and implemented as required. When the governing

body determined the arrangements in February 2016, there was no evidence that it considered any responses received before confirming its decision. The school did not supply me with any responses received but I was made aware that the LA had responded and obtained a copy of this response. I have seen no evidence that this response was considered by the governing body. In addition I have found no evidence that the governing body considered the impact of the proposed changes. For these reasons I uphold this part of the objection. Having requested information from the school, it became clear that the school is now aware of the deficiencies and will be considering how to put them right should it decide to propose making changes in the future.

19. The second part of the objection concerns the fairness of the arrangements and in particular the removal of the catchment area. The LA responded to the school's consultation as set out below:

*"The Local Authority has looked at the results of the 2015 -16 allocation and then applied the criteria above to the list of children who had submitted applications for that year. We then compared these two sets of data. Had the proposed criteria been used for last year's allocation, there would have been 14 families classed as "In Area" under the 2015-16 criteria who would not have been offered a place. Of these 14, 10 are located in very small part the south west of the Queen's Park catchment area. These families are very close to the Boundary of Malmesbury Park but had they applied for this school, they would not have been offered a place.*

*In 2015-16 allocation Malmesbury Park offered five "Out of Area" places, to a distance of 0.270miles. The closest of the 10 families located at this end of the Queen's Park catchment area live 0.408miles from Malmesbury Park.*

*The Local Authority believes that the removal of the Queen's Park catchment area will disadvantage families who have historically viewed Queen's Park as their local school, and who will find themselves unable to access a school within their local area.*

*The Local Authority asks the Admitting Authority to review the proposal, and in light of this would ask that the current arrangements, which prioritise children from the local area above those whose families do not reside in the historic catchment area, are retained.*

*At this time of pressure on school places, the Admissions Forum and School Place Planning Board have made a commitment to provide places for children at schools close to where they live. Consequently the admission policies of all admission authorities in Bournemouth should reflect this aim."*

20. The Code in paragraphs 14 and 1.8 requires schools to ensure that their arrangements are fair. The governing body appears not to have considered the impact of its proposed change on families in the area and the LA's response highlights a particular group of families who may find that they will not gain a place because they are the most distant from the school and yet are not within another school's catchment area. The consequence for

these families is that they may be unable to gain a place in a local school and have to travel to the nearest school that has places available which could be some distance away. At the same time, other families living in another local school's catchment area but close to Queen's Park may find themselves with priority for two schools – their catchment area school on the basis of catchment area and Queen's Park on the basis of distance.

21. The governing body is responsible for setting its own admission arrangements and so may decide to make changes after consultation. However, in doing so it must ensure that the new arrangements will be fair. In this case it has been demonstrated by the LA that by removing the existing catchment area there is a group of families that will be directly disadvantaged as a result. The school uses the argument that the other school that is in its catchment area uses straight line distance within its oversubscription criteria. I note that the school referred to opened in 2013 and the catchment areas had been established before that point. There is a requirement to ensure fairness and I therefore uphold this element of the objection.

22. Finally, I uphold the objector's comment that the governing body needs to review the inclusion of dates of birth within the oversubscription criteria of the 2017 arrangements. In the first place, children applying for a place in Reception in September 2017 would be expected to include those born in August 2013. Secondly, the inclusion of these dates in the oversubscription criteria contradicts paragraph 10 of the arrangements that explains how parents may request admission of children outside their normal age group and makes the arrangements unfair. Paragraph 2.17 of the Code applies here.

### **Summary**

23. For the reasons given above I have upheld all aspects of the objection. Paragraph 3.1 of the Code now requires the school to revise the admission arrangements for 2017 to ensure compliance with the Code within two months of the date of this determination.

### **Determination**

24. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Queen's Park Infant Academy, Bournemouth.

25. 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: 13 May 2016

Signed:

Schools Adjudicator: David Lennard Jones