



DETERMINATION

Case reference:	ADA 3107
Objector:	A website owner
Admission Authority:	The Governing Body of The Latymer School, Edmonton, Enfield, London
Date of decision:	22 June 2016

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2017 determined by the governing body for The Latymer School, Edmonton, London in the local authority area of Enfield.

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 this 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 website owner, the objector, about the admission arrangements (the arrangements) for admission in September 2017 to The Latymer School (the school), a voluntary aided (VA) grammar school for boys and girls aged 11-18 in Edmonton, London. The objection refers to the definition in the arrangements of the point at which the school is oversubscribed; the process of late testing; the priority for admission of 20 places for students who show exceptional musical talent; and the fairness of the catchment area.
2. The local authority (LA) for the area in which the school is located is the London Borough of Enfield.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the school's governing body which is the admission authority for the school. The objector submitted the objection to these determined arrangements on 21 April 2016. 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 a 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 objector's form of objection dated 21 April 2016 and subsequent correspondence;
 - b) the school's response to the objection, supporting documents and subsequent correspondence;
 - c) the LA's response to the objection and supporting documents;
 - d) the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
 - e) maps of the area;
 - f) confirmation of when consultation on the arrangements last took place;
 - g) copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
 - h) a copy of the determined arrangements.

The Objection

6. There are four elements to the objection. There is a statement in the arrangements which describes the point at which the school is oversubscribed and states that: *"The School will be over-subscribed if by the deadline for submission of the School Registration Form it receives more than 186 applications from applicants who reside in the Inner Area."* The objector suggests that this is incorrect. The relevant paragraph in the Code is 1.6 which describes oversubscription as *"...when there are more applications than places"*.
7. The second element of the objection refers to the fairness and methodology for late testing of some pupils during the selection process. Subsequent correspondence from the objector provides more detail of the objection and covers the use of the same test papers in late testing and the exclusion of some groups of pupils from the late testing process. The objector suggests that these arrangements do not conform with paragraph 1.8 of the Code which states that *"oversubscription criteria must be reasonable, clear, objective,*

procedurally fair and comply with relevant legislation, including equalities legislation”.

8. The school prioritises places for 20 pupils with exceptional musical talent. The third element of the objection states that this process leads to indirect discrimination of poorer families in contravention of paragraph 1.8 of the Code which states that “*Admission authorities **must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group***”.
9. The final element of the objection concerns the fairness of the catchment area. The objector suggests that the arrangements contravene paragraph 1.14 of the Code which states that “*Catchment areas must be designed so that they are reasonable and clearly defined*”. The objector suggests that the catchment area disadvantages some groups of pupils. Paragraph 1.8 is also relevant to this element of the objection.

Background

10. The school is designated by the Secretary of State as a grammar school. It is a VA school for pupils aged 11 -18. The school’s published admission number (PAN) is 186 and it is heavily oversubscribed with 1974 applications for places in 2016. The school consulted on its admission arrangements for September 2017 in December 2015 and January 2016. The arrangements were determined by the governing body on 11 February 2016 by correspondence and formally ratified by the governing body on 15 March 2016. They were published on the school’s website and the LA was informed in line with the Code.
11. The school selects its pupils by testing using a nationally recognised set of tests. The oversubscription criteria are then used to admit up to the PAN from among the 450 candidates who achieve the highest scores in the test. Priority is given to pupils who live in the school’s defined “*inner area*”. I am satisfied that what the school refers to as its “*inner area*” is what the Code calls a catchment area and I have used the term catchment area in this determination. For admission in September 2016 no applicant who lived outside the catchment area was admitted.
12. Parents complete a registration form during the summer term of the year prior to admission and testing takes place in September of that year. The highest achieving 450 pupils (350 pupils in the years up to and including 2016 admissions) are then considered for admission and priority is given to those applicants who reside in the catchment area. The following oversubscription criteria are then applied:
 - 1) Pupils with an Education Health & Care Plan.
 - 2) Looked after and previously looked after children.
 - 3) A maximum of 20 applicants who show exceptional musical talent.

- 4) A maximum of 20 applicants who are eligible for Pupil Premium.
- 5) The remaining places are offered to applicants with the highest aggregate age-standardised scores in the tests.

All terms within the criteria are defined and the catchment area is explained by a detailed list of postcodes. For admission in September 2016 no places were allocated criteria 1 and 2. Seven places were awarded to pupils who showed exceptional musical talent and nine places to those who were in receipt of the pupil premium. The remaining places were allocated under criterion 5. As noted above, all places were allocated to pupils living within the catchment area.

Consideration of Case

13. The first element of the objection concerns the statement in the arrangements which states that *“The School will be over-subscribed if by the deadline for submission of the School Registration Form it receives more than 186 applications from applicants who reside in the Inner Area”*. The objector suggests that an application to take the test is not an application to the school. The objector points out that oversubscription can only be defined after the Common Application Forms (CAF) for the LA have been submitted and processed.
14. The school’s response acknowledged that, while registration to take the tests is part of the process for application, the actual level of oversubscription can only be confirmed when the CAF forms are completed and analysed. The school makes the point that for admission in September 2016, 1975 requests to take the test were received. However, the school suggested that the removal of this wording will be considered by the admissions committee and the governing body.
15. In its response, the LA confirmed that, as the school is a selective school, applicants are tested before preference for the school is indicated on the CAF. This is in line with the provision of paragraph 1.32 of the Code which provides that admissions authorities should aim to inform parents of the outcome of selection tests before the closing date for applying to schools. Naturally, this relies in turn on the tests taking place well before the closing date. However, formal application can only be made through the completion of the CAF and therefore over-subscription can only be accurately calculated at that point. The LA agrees that the statement in the arrangements is not factually correct and should be removed from the arrangements.
16. Paragraph 1.6 of the Code states that *“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied”*. The word *“applications”* is key in this context. The completion of a registration form to sit tests is not an application to the school. Formal application can only be made through the LA on the CAF and this is made clear in the arrangements.

17. The stated definition of oversubscription in the arrangements is not in line with the Code and requires amendment. I therefore uphold this element of the objection.
18. The second element of the objection refers to the late testing of pupils within the same admission round. The objector asks if it is reasonable or unfair to refuse late testing, questions whether or not the school uses the same test for late testing and suggests that if that is the case then it is unfair as the content will be known and the results will not be a fair reflection of ability. In subsequent correspondence the objector questions the timing of late tests and asks if the tests are administered throughout the admission year. The objection suggests that the late testing arrangements are not fair or reasonable and do not therefore conform with paragraph 1.8 of the Code.
19. The arrangements contain the following detail about the tests and their administration: *“The assessment tests are determined by CEM (Centre for Evaluation and Monitoring) and used by a consortium of Grammar Schools in the UK. All consortium schools agree to administer the tests on the same day. The tests will consist of two 45 minute papers, each of which contains a mix of verbal reasoning, numerical reasoning and non-verbal reasoning components. Schools have no advanced knowledge of the topics covered in the tests. Applicants are expected to show competence in skills appropriate to Key Stage 2 English and Mathematics, and to be able to apply these skills creatively. These tests can only be taken once, at one consortium school. For parents applying to more than one consortium school, the test results will be shared between these schools. The raw scores will be optically marked and age standardised by CEM. The ranking is determined by the aggregate of the age standardised scores of both tests. There are no practice papers for sale in respect of these tests. A familiarisation sheet of questions will be available on our website.”*
20. In the school’s response to the objection, the headteacher explains that a late test is offered to applicants who were unable to sit the first test. This test is administered approximately one week later than the set test date. The exceptional circumstances she cites are illness, religious or unforeseen circumstances. She goes on to say that the inclusion of a statement about this late testing in the arrangements will be considered by the admissions committee and the governing body.
21. In his response, the Head of Admissions at the LA acknowledged that he was aware that the school offers an opportunity for late testing. He made no further comment on the issue.
22. Paragraph 1.18 of the Code refers to the selection of entire intakes of pupils on the basis of high academic ability. It goes on to say that if the required standard is not reached by all those applying then the school does not have to fill all their places. The school is a designated grammar school and is therefore able to select only those pupils who, according to the arrangements; *“are capable of following an education leading to the higher grades of GCSE in a full range of National Curriculum subjects.”* The school chooses to use a testing methodology

which is widely used by the grammar school sector. For admission in September 2016 1974 pupils registered to take the test. The highest achieving 350 pupils were considered for admission.

23. On its website CEM sets out the steps it takes to ensure that its tests are as fair as possible and provide as true as possible an indication of ability. No practice papers are provided, past papers are not published and test content is amended annually. The grammar school consortium agrees to administer the tests on the same date across the area. The tests are optically marked and age standardised by CEM and the results are shared across the consortium. It is my view that the school ensures that the tests are as fair as possible through this process.
24. The objector has a strongly held view that late testing, using the same test papers, introduces risk into this process. His concern is that those who are to be tested late will gain access to others who have already taken the tests. The perceived risk to fairness relies on those pupils who have taken the tests being able to remember the content from the tests and be willing to share this. The pupils undertake 90 minutes of tests which comprise a mix of verbal reasoning, numerical reasoning and non-verbal reasoning components. The questions are all multiple choice answers in order to facilitate optical marking. I am of the view that the likelihood of a 10 or 11 year old child remembering the content of these questions and their multiple choice answers and then communicating them to some-one else is very small and does not pose a material risk to the integrity of the testing regime used by the school.
25. I am also of the view that it is reasonable and fair for the school to offer a second chance to take the test to those children who cannot take it on the main date because of illness or for some other unavoidable circumstance. Parents register for their children to take the test up to four months prior to the tests taking place. The closing date for registration for the test is 4 July 2016 for those wishing to apply for admission in September 2017. The date of the test is published in the arrangements and letters explaining the administration of them are sent to the families. The school minimises any possibility of the sharing of knowledge by holding the later test approximately a week after the main test date and by not publishing this fact in the arrangements. Families are keen for the children to take the test and would be understandably concerned if, say, a sick child was not given an opportunity to take the test at a later date. I consider that the school takes all reasonable steps to ensure that the administration of these late tests is fair and in line with paragraph 1.8 of the Code which states that “*oversubscription criteria must be reasonable, clear, objective, procedurally fair and comply with relevant legislation, including equalities legislation*”. I do not uphold this element of the objection.
26. In further correspondence, after the objection, the objector cites the section of the Code which concerns the allocation of places. Paragraph 2.9 of the Code states that: “*Admission authorities must not refuse to admit a child solely because:*
 - a) *they have applied later than other applicants; and*
 - e) *they have missed entrance tests for selective places*”.

The objector interprets this paragraph to mean that any pupil who missed a test must be allowed to be tested and that any pupil moving into the area after the test date must also be allowed to be tested. The objector questions the fairness of using the same tests as those taken in the main testing round in these circumstances.

27. The allocation of places to the school occurs after the applications have been received by the LA on the CAF. The school submits the names of 450 pupils who have achieved the highest scores in the tests. The oversubscription criteria are then applied to these pupils and places are allocated in line with the priorities until the PAN is reached. This means that the allocation of places depends on the oversubscription criteria in line with the Code. The school is not refusing to admit a child *“solely because they have applied later than other applicants or have missed entrance tests for selective places.”* Paragraph 2.9 is therefore not relevant in this context. I do not uphold this aspect of the objection.
28. The allocation of places at the school outside the normal admissions round (that is at the beginning of Year 7 in this case) is not within my jurisdiction. However, I note that the school does make arrangements for children to be considered for any vacancies arising at the school during the course of Year 7 or later years. In these cases the school does not use the CEM tests but writes and administers its own tests.
29. The third element of the objection concerns the oversubscription criterion which prioritises 20 places for pupils with exceptional musical talent. The objector states that this process leads to indirect discrimination of poorer families in contravention of paragraph 1.8 of the Code which states that *“Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group”*.
30. In the headteacher’s response she states that the selection process for music candidates has been in place for *“30 years or more”*. She goes on to say that the majority of the music applicants are ranked in the top 186 and so would be offered a place within the PAN and that for admissions in September 2016 only seven music applicants were outside the 186 but within the list of 350 and were therefore admitted under oversubscription criterion 3.
31. In its response the LA stated that the opportunity for a limited number of candidates to be given priority on the grounds of exceptional music talent has been an element of the admission arrangements at the school for a number of years.
32. As a grammar school the school is permitted to select its entire intake on the basis of high academic ability as stated in paragraph 1.18 of the Code. This is the case as only those applicants who rank in the top 450 of those pupils who sit the tests are considered for admission. From within this group, the school prioritises other groups of pupils including those pupils who live within the catchment area, those who demonstrate exceptional musical talent and pupils whose families are in receipt of the pupil premium.

33. The objection suggests that the arrangements lead to indirect discrimination of poorer families because they are unable to pay for the music lessons which would be necessary for the child to achieve a grade 5. The school makes it clear that they do not wish to discriminate against poorer families and therefore they have introduced an oversubscription criterion which prioritises those pupils who achieve the required standard in the test and whose families are in receipt of the pupil premium. For admission in September 2016 nine pupils were admitted under this criterion. In order to increase this number the arrangements for admission in September 2017 will consider the highest achieving 450 pupils rather than 350 as in previous years. The school suggests that any alleged disadvantage to poorer families is counterbalanced by this criterion. The school reports that *“current pupil premium students receive either free or financial assistance with music lessons. There is also financial assistance available to less well-off families.”*
34. There is clear evidence that the school is seeking to admit pupils from a range of socio-economic groups by the introduction of the criterion which prioritises families in receipt of the pupil premium and by offering financial assistance to poorer families to support extra music lessons. I do not therefore uphold this element of the objection.
35. The fourth element of the objection concerns the fairness of the catchment area. The objector suggests that the arrangements contravene paragraph 1.14 of the Code which states that *“Catchment areas must be designed so that they are reasonable and clearly defined”*. The objector suggests that the catchment area disadvantages some groups of pupils and refers to: *“... property price school admissions; EU nationals wishing for education at the school and ethnic make-up of the catchment area.”* Paragraph 1.8 is also relevant to this element of the objection as it states that *“Admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.”*
36. The objector says that catchment areas are unfair in the 21st century when parents are mobile and admission to schools should be available to all children irrespective of where they live. The objector suggests that grammar schools should not have catchment areas in the same way that universities do not. The objection goes on to say that the solution is to *“scrap catchment areas, which are outdated and discriminatory”*. Paragraph 1.14 of the Code states that *“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”*. The Code specifically allows for catchment areas. Against that background, my jurisdiction is concerned with whether a particular catchment area is fair, reasonable and clearly defined.
37. In the school’s response the headteacher maintains that the catchment area for the school complies with the Code as it is designed to be

reasonable and clearly defined. In its response, the LA states that it is of the opinion that the catchment area meets the requirements of the Code.

38. The school has a clearly defined catchment area; individual postcodes are listed in the arrangements. The postcodes describe an area around the school; they include all postcodes in the London north district and the nearest postcodes to the school in the east district. The geographical area covered by the postcodes includes all local areas to the school and extends to a maximum of nine miles distance from the school.
39. The school is heavily oversubscribed and all those pupils who have been offered a place for September 2016 live within the catchment area. The objector has not provided any evidence that the catchment area discriminates against any particular group of pupils.
40. An ethnic breakdown of all pupils in the school has been provided and shows how families have described their ethnicity. The breakdown shows a diverse ethnic mix with pupils from over 50 different countries represented. Of these approximately one third are described as white English and another third are from EU countries. A comparison of these figures with those provided by Enfield council's website indicates that the school's population is representative of the ethnic mix of the area. These figures indicate that there is no apparent disadvantage to particular ethnic groups within the school's catchment area.
41. I consider that the catchment area is clearly defined and reasonable and I have found no evidence to suggest that any particular racial or social group is disadvantaged by the school's arrangements. This part of the arrangements is therefore compliant with the Code and I do not uphold this element of the objection.

Summary of Findings

42. The statement in the arrangements which defines the point at which the school is oversubscribed is inaccurate. It suggests that the school is oversubscribed at the point at which pupils are registered to take the selection tests and this is not the case. Paragraph 1.6 of the Code defines oversubscription as "*when there are more applications than places.*" The school is oversubscribed only after the CAFs have been submitted and the oversubscription criteria applied. I therefore uphold this element of the objection. The school has already indicated that they are discussing this change in the arrangements and this is in line with paragraph 3.6 of the Code which permits revisions to arrangements to give effect to a determination of an Adjudicator.
43. With reference to the fairness and methodology for late testing of some pupils during the selection process, I am of the view that it is reasonable for the school to allow those pupils who have missed the test due to exceptional circumstances to take the test late. The arrangements comply with paragraph 1.8 of the Code and I therefore do not uphold this element of the objection.

44. The school, as a designated grammar school, is permitted to select its entire intake on the basis of high academic ability in line with paragraph 1.18 of the Code. It prioritises from within those who achieve the highest scores particular groups of children. It is entitled to do so; including those with exceptional musical ability. The arrangements in this respect conform with the Code and I do not uphold this element of the objection.
45. The catchment area of the school is reasonable and clearly defined. . I have concluded that the use of a catchment area in the arrangements is compliant with the Code and I do not uphold this element of the objection.

Determination

46. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2017 determined by the governing body for The Latymer School, Edmonton, London in the local authority area of Enfield.
47. 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 this determination.

Dated: 22 June 2016

Signed:

Schools Adjudicator: Mrs Ann Talboys