



DETERMINATION

Case reference:	ADA3220
Referrer:	A member of the public
Admission Authority:	The Liverpool College Independent School Trust
Date of decision:	26 August 2016

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered a referral about the admission arrangements for admission to Year R and Year 7 in September 2017 determined by the governing body of the Liverpool College Independent Trust.

I determine that the arrangements in respect of the concerns raised conform with the requirements relating to admission arrangements.

The referral

1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act), a referral has been made to the Office of the Schools Adjudicator (OSA). The referral concerned the oversubscription arrangements for Liverpool College (the school); an academy school for pupils aged 3 – 19 in Liverpool. The local authority (LA) for the area is Liverpool City Council.
2. The referral is about the definition of the school catchment area and the clarity of the wording of the school's last oversubscription criterion.

Jurisdiction

3. The terms of the funding agreement between the Liverpool College Independent School Trust (the trust) and the Secretary of State for Education require that the admissions policy and arrangements for the schools are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body of the school on behalf of the trust, which is the admission authority for the school, on 1 February 2016 on that basis. The referral was made on 17 May 2016 which was after the deadline of 15 May 2016 for making objections but I have used my power under section 88I of the Act to consider the matter as a referral. I am satisfied that I have the jurisdiction to consider the arrangements on this basis.

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. Correspondence from the referrer dated 17 May 2016 and supporting documents together with follow up comments;
 - b. comments from the school in response to the objection together with supporting documents;
 - c. the funding agreement between the Secretary of State for Education and the trust for this school;
 - d. a map of the area showing the school catchment area;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. the minutes of the meeting of the school governing body on 1 February 2016 at which the arrangements for September 2017 were determined for this school; and
 - h. a copy of the determined arrangements for 2017.

The referral

6. The referral concerns the use by the school of a catchment area for one of its oversubscription criteria and whether it is properly defined as required by the Code in paragraph 1.14 which says "*catchment areas must be designed so that they are reasonable and clearly defined.*" The school's arrangements give some priority to children who live within a two mile radius of the school and I consider that the area thus defined constitutes a catchment area for the purposes of the Code. The referral also suggested that the wording in criterion v. of the arrangements is not clear about which applicants it applies to and so fails to meet the requirement of paragraph 1.8 of the code that says that "*oversubscription criteria must beclear...*"

Background

7. The school became an academy in 2013 and is an all age academy for children between the ages of 3 and 19. The school includes a nursery with 26 full time equivalent places and boarding provision for up to 30 sixth form pupils. The school was, until it became an academy in September 2013, an independent fee-paying school. The school has a Church of England foundation but does not apply any faith based criteria for admissions. The school is oversubscribed with many more applicants for places than there are places available.

8. The published admission number (PAN) for Year R is 54 and the PAN at Year 7 is 86. At the secondary phase this gives a year cohort of 140 pupils. The school uses the same oversubscription criteria for Year R and Year 7 with

an important distinction that for admission to Year 7 the school uses banding and allocates some places on the basis of aptitude for modern foreign languages. The school has 86 places to allocate at Year 7 (140 minus the 54 children who transfer from Year 6). All applicants for the 86 Year 7 places sit non-verbal reasoning tests for the purposes of banding together with a modern languages aptitude test. Applicants are divided into five equal sized ability bands on the basis of the verbal reasoning tests. Ten per cent of available places are allocated on the basis of the modern languages test and these places are allocated before the banding is applied although the children are included in the bands and so count against the number of places available in each band for other children.

9. At Year R and then at Year 7, if the number of preferences for the school exceeds the number of places available at the school in 2017, the arrangements set out the oversubscription criteria which are summarised below:

- i. looked after children and previously looked after children;
- ii. children with a sibling in year R – Year 13;
- iii. children whose parents have worked at the school for two years or more;
- iv. 50 per cent of the remaining places are allocated to children who live within a 2 mile radius of the school gate and the places are allocated on a random basis;
- v. other children allocated on a random basis.

For Year 7, the oversubscription criteria are applied to each band.

Consideration of Factors

10. In considering this referral, I have looked at the school's admission arrangements carefully and oversubscription criteria iv. and v. in particular as they are the subject of the referral. The same oversubscription criteria are applied at both Year R and Year 7. At Year 7 the arrangements are more complicated than at Year R. This is because, as outlined above, the school applies the banding test to all applicants and on the basis of the test scores divides the applicants into five ability bands and also selects 10 per cent of the applicants on the basis of their aptitude for modern languages. These places are allocated before the banding is applied and then the pupils are allocated to the five bands on the basis of the banding tests. The oversubscription criteria are then applied to each of the five bands.

11. Oversubscription criterion iv is worded within the arrangements as follows. *"50 per cent of the remaining places will be offered to pupils who live within a two mile radius of the main entrance gates of the Liverpool College (situated on Molyneux Road)[see map], by random allocation."* A map of the area is available on the school website.

12. The referral questions whether it is lawful for a school to only use a catchment area for one of the oversubscription criteria and if this is lawful whether the catchment area is adequately and clearly defined. The Code

does not specify whether a catchment area must be used for all oversubscription criteria if it is to be used. Without specification it is up to the school to consider its approach while ensuring that it complies with the other core requirements of the Code for objectivity, clarity and fairness.

13. Paragraph 1.14 of the Code is quoted above and requires catchment areas to be “*reasonable and clearly defined*”. The school has decided that it wishes to give an element of priority to local children and in order to do so it has defined a catchment area which is a circle of radius two miles centred on the school gates. The circle is centred upon the school gates which are a well-defined location and a reasonable place to choose. The radius of the circle is two miles and this is a reasonable distance to choose and does not give more or less priority to one local area over another. The circle is clearly defined but it bisects some houses. The mapping software will need to determine whether a house that the line bisects is in or out of the area. Overall, I am satisfied that in these respects the catchment area complies with the Code.

14. I then considered if it was reasonable to apply the catchment area to only 50 per cent of the applicants in conjunction with a banding test and a random selection of the applicants. The banding test is permitted by paragraph 1.25 of the Code and complies with the Code’s permission “*to produce an intake that is representative of.....the full range of ability of applicants to the school..*”. Random allocation is permitted by paragraph 1.34 of the Code which says that “*....admission authorities that decide to use random allocation**must** set out clearly how this will operate.....*”. The Code makes no comment about whether all applicants should be considered against the catchment area so I conclude that this is a decision for the school to make. The inclusion of a catchment area means greater certainty that a greater proportion of children living relatively near to the school will gain places than would be the case if all places were allocated on the basis of banding and random allocation.

15. Paragraph 14 of the Code requires arrangements to be “*fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*” In my consideration I have not found any individuals or groups of children who are being treated less fairly than others; the measure is clearly described and the combination of defined area and random allocation are objective and in my view satisfy the requirements of the Code. The combination of banding, partial selection and catchment area is relatively complicated and while capable of being understood, the arrangements might benefit from some form of summary or diagram to help clarify how the arrangements work.

16. The referrer goes on to say that the arrangements are unclear in criterion v. about who is considered for the remaining places and whether children living within the two-mile radius are considered for the places or not. The school confirmed that, once the 50 percent of places had been allocated to children who live in the two-mile radius catchment area, all other children who have not yet been allocated a place regardless of where they live are included in the random allocation for the remaining places. The arrangements

say this and I do not consider that they are unclear. However, this serves to emphasise the point that further explanation might be helpful for parents. The referrer makes the comment that if children are to be allocated places at random there is the potential for a child who lives a long way away to be allocated a place. This is indeed true but does not offend against any Code requirement. Paragraph 1.10 of the Code says *“this Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to local circumstances.”*

Summary of Findings

17. The referral concerns the oversubscription criterion that gives priority to pupils living within a two-mile radius circle of the school. I have concluded that the school is compliant with the Code in this respect. I have also confirmed that the criterion that applies to other children applies to all other children who have applied and not yet been allocated a place.

Determination

18. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered a referral about the admission arrangements for admission to Year R and Year 7 in September 2017 determined by the governing body of the Liverpool College Independent Trust.

19. I determine that the arrangements in respect of the concerns raised conform with the requirements relating to admission arrangements.

Dated: 26 August 2016

Signed:

Schools Adjudicator: David Lennard Jones