



DETERMINATION

Case reference: ADA2846

Objector: Halton Borough Council

Admission Authority: The Innovation Enterprise Academy Trust for Wade Deacon High School, Widnes, Cheshire

Date of decision: 3 July 2015

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 the Innovation Enterprise Academy Trust for Wade Deacon High School in the local authority area of Halton Borough Council.

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 Halton Borough Council (the objector and local authority), about the admission arrangements (the arrangements) for Wade Deacon High School (the school), an academy secondary school for children aged 11 – 16 years for September 2016. The objection is to the use of distance as an over-subscription criterion as this is seen to be unfair to some children due to the local geographical context.

Jurisdiction

2. The terms of the academy agreement between the Innovation Enterprise Academy (the 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 trust, which is the admission authority for the school, on that basis on 2 December 2014. The objector submitted its objection to these determined arrangements on 10 April 2015. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and it is 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 form of objection; supporting documents; and further information requested by the Office of the Schools Adjudicator (OSA) including data on appeals and the consultation leading to the formation of catchment areas for 2010;
 - b. the school's response to the objection and supporting documents;
 - c. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2015 (2016 not yet available);
 - d. maps of the area identifying: relevant schools; the effect of using the distance criterion; the previous catchment areas; where children expressing first preferences lived; and where children lived who were allocated places;
 - e. information on the most recent consultation by the school;
 - f. copies of the minutes of the meeting on 2 December 2014 at which the trust determined the arrangements; and
 - g. a copy of the determined arrangements.

The Objection

5. The objection is that the arrangements determined for 2016 using distance from the school as an oversubscription criterion are unfair to children living on the eastern, south-eastern and north-eastern edges of the town of Widnes. From 2010 until 2014 the admission arrangements had included the use of a catchment area which gave these children a priority for a place at their nearest school, Wade Deacon High School. In 2015 the use of a catchment area by the school was ended and distance became the main over-subscription criterion. This has led to some children living on the eastern edges of the town being unlikely to get a place at the school, when they had a good chance of doing so previously; now some may need to pass the school to get to the next nearest school for them. These arrangements were introduced for 2015 and have continued for 2016. The objector recognises that distance as a criterion is permitted by the Code but believes that the effect is unfair and so not fulfilling paragraph 14 of the Code.
6. The objector is also concerned that families and the local authority may accrue additional transport costs because travel to school distances have been increased by the change.

Background

7. Wade Deacon High School is in the town of Widnes which is bordered by the river Mersey on the south side. The school converted to academy status on 1 March 2013 with the Innovation Enterprise Academy Trust as its trust. The predecessor school was judged outstanding by Ofsted. The trust is the admission authority. There is also a local governing body but it is not the admission authority for the school.
8. The local authority described a long and thorough consultation on the reduction in the number of secondary school places in Widnes in 2008. This led to the closure of a nearby school, Fairfield High School; the increase in the published admission number of Wade Deacon High School to 300; and the introduction of catchment areas for 2010 for Widnes. As a result Widnes had two catchment areas with Ormiston Chadwick Academy to the west and Wade Deacon High School to the east of the town. The two schools are about one and a half miles from each other by road.
9. There are three secondary schools in Widnes. These are Wade Deacon High School, Ormiston Chadwick Academy and Saints Peter and Paul Catholic High School. Only Wade Deacon High School is oversubscribed. Saints Peter and Paul Catholic High School receives children from a wide area as is common with a faith school and is located about 400 metres from Wade Deacon High School and on the same campus.
10. The school changed to become an academy in March 2013 which was too late to consult on admissions for 2014 and the arrangements determined by the local authority continued to apply. For admission to the school in September 2014 all those who lived in the catchment area, and made their application before the deadline, were allocated a place at the school.
11. Wade Deacon High School consulted on its admission arrangements for 2015 from 16 December 2013 until 10 February 2014. The proposals were to end the use of the catchment area criterion and re-introduce the distance criterion. In its letter dated 29 January 2014 the local authority raised serious concerns that the proposals did not reflect the public's response to the consultation in 2008 where there had been pressure for the introduction of catchment areas and that there would be an increase in transport costs. The proposals were agreed by the school when it determined its arrangements on 19 March 2014. The local authority did not object to the OSA about the 2015 arrangements. There has been no further consultation for 2016 by the school and this is in line with paragraph 15b of the Code which only requires consultation every seven years if no changes are planned.

12. The trust determined the arrangements for 2016 on 2 December 2014. The local authority made its objection having considered the effect of the change from the initial allocation of places for admissions in 2015.

Consideration of Factors

13. The rationale for the original introduction of catchment areas appeared relevant so I considered the history of their introduction in 2010. Before then, as for most secondary schools in the local authority area, distance was the key criterion to allocate places when a school was over-subscribed. The limited information available on the historical consultation persuaded me that the local authority introduced catchment areas as a fair and reasonable way of meeting the concerns of parents relating to the particular circumstances in Widnes. The use of catchment areas provided some priority in terms of allocating places at the school for those who lived on the fringes of the town and thus were the furthest from all the schools and so could be disadvantaged by a system solely based on distance. Paragraph 1.14 of the Code permits catchment areas which are reasonable and clearly defined.
14. The school consulted from 16 December 2013 to 10 February 2014 on changing the admission arrangements for September 2015. The school provided me with the record of six consultation responses received. The responses included potential parents, the local authority and the local member of parliament. Several raised concerns over the ending of the use of catchment areas, including the local authority. One parent said that, *"I am concerned that the children in our area will fail to gain a place at Wade Deacon based on distance. For those parents with a preference towards a non-religious school, there is no alternative Halton secondary school within walking distance."* The other matter of concern was the removal of a priority for siblings.
15. The school took note of the consultation; changes can be seen in the determined arrangements as a result. It did not change its mind on the introduction of the use of distance. The minutes of the local governing body, noting the decision of the trust as the admission authority to continue with the same admission arrangements for 2016, acknowledge: *"that the admission criteria was set following a detailed consultation with a view to provide as far as possible places for students who are local to the school community."*
16. The school's oversubscription criteria for 2016 are (once places for children with statements of education need or education, health and care plans have been allocated):

"j) Children in public care – looked after children or children who were previously looked after, but immediately after being looked after became subject to an adoption, residence or special

guardianship order.

ii) Pupils living nearest to the school measured using an Ordnance Survey address – point system which measures straight line distances in metres from the point of the place of permanent residence of the pupil to the address point of the school. The school will consider the point of residence in joint custody circumstances on the production of relevant evidence to support this claim.”

17. The school will wish to note the revised wording relating to previously looked after children in paragraph 1.7 of the Code and bring its arrangements into line with that new wording.
18. The school explained to me that “*with the exception of one looked after child, all 299 admissions for September 2015 have a Widnes postcode.*” The figures provided by the local authority show that the furthest child from the school who was allocated a place for admission in 2015 was just over 2000 metres away. There is no doubt that the children who were allocated places at the school in 2015 were local.
19. The use of distance as an oversubscription criterion is permitted by the Code in paragraph 1.13. The objection is related to the geography of the area and the specific circumstances. The maps provided to me show small groups of children who would previously have been in the catchment area for the school; made the school their first preference; were not allocated places for 2015; and would have to pass by the school in order to get to the next nearest school.
20. At the same time other children who live to the west of Widnes and close to Ormiston Chadwick Academy, which they have to pass by in order to get to Wade Deacon High School, have a higher priority for Wade Deacon High School based on distance. The local authority believes that there is likely to be a similar pattern for 2016 and that this is unfair.
21. The local authority provided me with an analysis of the allocation of places in 2015 by making a comparison with what would have happened under the previous admission arrangements. These indicate that there were 50 children who were allocated a place at the school who would not have been under the previous arrangements. For all of these children the distance to Wade Deacon was greater than it would have been than to Ormiston Chadwick Academy, the other non-denominational secondary school in Widnes. On a few occasions this greater distance is merely 200 metres; commonly it is around 1500 metres more. The travelling distances of these 50 children vary between 1000 – 2000 metres to the school. Clearly these children are choosing to travel further to attend the school rather than attend their nearest school.

22. A map providing concentric circles with the school at its centre illustrates that some children who live the other side (the west side) of Ormiston Chadwick Academy, would have a higher priority for a place at Wade Deacon under the current distance arrangements than would a child living on the eastern edge of Wade Deacon and for whom Wade Deacon is the nearest school.

23. The school's comments on these figures are that there will be disappointed families whatever system is applied while the school is so popular; there is a denominational school with capacity which is only 400 metres from Wade Deacon High School; and that there are both catholic and Church of England primary schools which could have led to a greater take-up of places at the catholic secondary school than has recently occurred. In effect the school is saying that if more children had stated a preference for the faith school, then it would have been likely that more children on the eastern edges of the town would have been allocated a place at the school.

24. Wade Deacon High School has been oversubscribed in recent years. There were 452 first preferences for the 300 places at Wade Deacon for September 2014. The appeals numbers are:

2013	25 (ten successful)
2014	55 (11 successful)
2015	51 (as at 27 April 2015)

25. These figures show a high number of appeals in 2014 before distance was introduced as the key oversubscription criterion but all children living in the catchment area and making their application by the deadline were allocated a place at the school. The maps of first preferences for the school for 2013 and 2014 show the majority as living within the then catchment area, some in wider Widnes and a significant proportion both outside Widnes and several miles from the school.

26. There were 26 refusals for admission in 2015 from those who would have lived in the previous catchment area and who had expressed a first preference for the school. I have looked at these in some detail so that I have an understanding of the effect of the admission arrangements. One of the town's three secondary schools is a faith school. This could affect parental preference and so I have made distance comparisons between the non-faith schools rather than with the catholic school. The figures provided to me by the local authority on the children who lived in the previous catchment area, made a first preference and were not allocated a place for 2015 showed that:

- a. Twelve children to the south east will have to travel approximately between 100 – 300 metres further to attend their next nearest non-denominational school. This does not seem unreasonable.

- b. Ten children to north east will have to travel approximately 1650 metres further to attend their next nearest non-denominational school. These children will have to travel around 3000 – 4000 metres in total to attend the next nearest non-denominational school from their home.
- c. Four to the north will have to travel approximately 4-500 metres further to attend their next nearest non-denominational school. This will make their distance to school around 2700 metres.

All distances are based on safe travelling routes.

- 27. In the current situation all the children who live in Widnes can have a place at a school in Widnes. Some will have to travel further than they wish and will need to pass their preferred school to get to their allocated school and this may seem perverse to families as it increases travelling time and, potentially, costs for parents and possibly the local authority. It is also a reasonable assumption that some friendship groups will be broken up as children will have to attend different secondary schools.
- 28. If a child lives under three miles (two miles for low income parents) then any transport costs incurred going to school must be met by the family. These distances, defined as reasonable walking distances for transport costs, can act as an indicator in considering this aspect of the objection.
- 29. Three miles is 4828 metres. None of the children who have been potentially negatively affected by the ending of the catchment area for 2015 travel more than that distance; the furthest is 4021 metres.
- 30. Two miles is 3218 metres. Ten children, all to the north east, who would have had a higher priority under the catchment area system than the distance system will have to travel more than two miles to get to the other non-denominational school. These ten would have travelled between 2000 and 3000 metres to get to school if allocated a place at Wade Deacon and so the increase in travelling distance is about 1650 metres.
- 31. These distances will be inconvenient to the families and may lead to some transport costs depending on the families' decisions on how their child gets to school. There may also be additional costs to the local authority if the children are from a low income family. They are not excessive in terms of travelling distances to school.
- 32. Nineteen of the children who expressed a first preference for Wade Deacon High School in 2015 and who also lived in the previous catchment area and were turned down, appealed against that decision. The local authority figures show that 16 of the 19 were allocated a place at Saints Paul and Peter Catholic High School which is only 400 metres from the school. Five of the 19 won their appeal for a place at Wade Deacon High School. This indicates

that the families were willing to attend a denominational school in most instances.

33. It is for admission authorities to determine their arrangements in the light of their local circumstances and in accordance with the provisions of the Code. Paragraph 14 of the Code says, "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are 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.*" The evidence that I have seen supports the conclusion that the allocation of places is clear and objective and that parents will easily understand how places are allocated.
34. The school is oversubscribed and not all those who would like a place will be able to go there. In these particular circumstances the previous catchment area system may well have been perceived by families living on the eastern edges of the town as fairer to them than is the distance criterion. However, given the distances concerned the arrangements conform with the requirements of the Code in terms of fairness.

Conclusion

35. I have considered all the evidence made available to me in detail. I have concluded that the use of distance as an oversubscription criterion is reasonable in these circumstances as the detriment to the families it affects is not so extreme as to render it unfair in terms of the Code.

Determination

36. 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 Innovation Enterprise Academy Trust for Wade Deacon High School in the local authority area of Halton Borough Council.

Dated: 3 July 2015

Signed:

Schools Adjudicator: Mrs Deborah Pritchard