



DETERMINATION

Case reference:	ADA3277
Objector:	A parent
Admission Authority:	London Borough of Hounslow for community primary schools in Hounslow
Date of decision:	25 September 2017

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 for September 2018 determined by the London Borough of Hounslow for community primary schools in Hounslow.

I have also considered the arrangements in accordance with section 88I(5) and find one matter which does not conform with the requirements relating to admission arrangements in the way set out in this determination.

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 parent (the objector), about the admission arrangements (the arrangements) for community primary schools in the London Borough of Hounslow (the local authority) for September 2018. The objection is to the use of catchment areas (which are in this case called Priority Admission Areas) that give priority for a place at several schools.
2. The local authority and the objector are the parties to the objection.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority, which is the admission authority for community

schools in its area. The objector submitted his objection to these determined arrangements on 18 April 2017. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

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 18 April 2017 and subsequent correspondence;
 - b. the local authority'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 2017;
 - d. maps of the area identifying catchment area boundaries and schools;
 - e. details of preferences expressed and allocations of places made at primary schools in the local authority area for September 2017;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the meeting of the local authority at which the arrangements were determined; and
 - h. a copy of the determined arrangements.

The Objection

6. The objector lives in the London Borough of Ealing, close to the border with the London Borough of Hounslow. In his form of objection, he says that whilst the oversubscription criteria for community primary schools in Ealing "*include residents of adjacent boroughs*", the London Borough of Hounslow does not have a "*reciprocal arrangement*." This, he argues, means that he is unfairly disadvantaged as,

"[schools] in Ealing are further oversubscribed with children from adjacent boroughs, whilst Hounslow schools are off limits to us."

The principal difference between the generic admission arrangements for community schools in the two local authorities is that in Hounslow priority is given, after looked after and previously looked after children and siblings, to applicants living in the "Priority Admission Area" for a school. In Ealing, however, there are no catchment areas and

applicants are prioritised simply on their distance of their home from the school. The objector contends that the arrangements are “*grossly unfair to residents [of Ealing] who live close to borough boundaries.*”

7. The objector does not refer to specific parts of the Code, but the section most relevant to his objection appears to me to be paragraph 14, which says:

*“admission authorities **must** ensure that the practices and criteria used to decide the allocation of school places are fair, clear and objective.”*

Paragraph 1.14 adds that catchment areas “*must be designed so that they are reasonable and clearly defined*” and refers in a footnote to a legal judgment (R v Greenwich London Borough Council, ex parte John Ball Primary School (1989) 88 LGR 589 [1990] Fam Law 469) that held that:

“pupils should not be discriminated against in relation to admission to the school simply because they reside outside the local authority area in which the school is situated.”

Other Matters

8. When I considered the arrangements as a whole, I noted that in a section headed, “*Admission to Junior School for a place in Year 3*”, the following statement appears:

“those in the Infant school will have top priority for places in the linked junior school”.

I considered that this may be in breach of paragraph 1.7 of the Code, which requires the highest priority to be given to looked after children and previously looked after children.

Background

9. The London Borough of Hounslow is located to the west of central London. The local authority is the admission authority for around 40 community primary, infant and junior schools in its area. There are generic oversubscription criteria for these schools. I have summarised these for September 2018 below and have set out criterion iv in full as that is the one which is key to this objection and my consideration of it:
 - i) Looked after children and previously looked after children
 - ii) Children whose medical or social circumstances require attendance at a particular school
 - iii) Children with a sibling at the school
 - iv) “*Distance – children living within the school’s Priority Admission Area*”

v) Other children.

If there is oversubscription within a criterion, places are allocated on the basis of distance from the school. If distances are equal, the drawing of lots is used as a tie-breaker.

10. The London Borough of Hounslow is unusual in that priority for places at community primary schools, for which it is the admission authority, is neither based solely on distance from the school nor do schools have individual catchment areas. Rather, the local authority has divided the borough into five Priority Admission Areas (PAAs). Residence within a PAA gives an applicant priority for places, under the fourth oversubscription criterion, at all of the community schools within the PAA. Within a PAA, priority for a particular school is given on the basis of distance between the child's home and the school concerned. The numbers of community schools within the PAAs vary from four (Brentford area) to thirteen (Central Hounslow area). Each PAA has what I describe as an "external boundary" with one or more neighbouring local authorities and an "internal boundary" with one or more neighbouring PAAs within Hounslow. The external boundaries follow almost exactly the boundary of the local authority area. There is a small number of exceptions. These occur where streets or parts of streets were re-allocated to neighbouring local authorities, as a result of a re-drawing of borough boundaries in 1994. Residents in these areas are regarded as living within the adjacent PAA in Hounslow.

Consideration of Case

11. I am in no doubt that the PAAs are, in fact, catchment areas, as living in a PAA gives priority for a place at the community schools within its boundaries. Therefore, I begin by considering whether the arrangements comply with the requirements relating to catchment areas laid out in paragraph 1.14 of the Code. I have been provided with maps showing the boundaries of the PAAs and lists of streets that fall within each PAA. Thus the PAAs meet the Code's requirement that catchment areas **must** be "*clearly defined*."
12. The Code also requires that catchment areas **must** "*be designed so that they are reasonable*." The local authority explained to me that until 2011 each school had an individual catchment area. The arrangements were then revised as there was significant growth in the numbers of primary-aged children and some children were not gaining a place at their catchment area school. The change to what the authority describes as '*super PAAs*' was made to enable children to obtain a place at one of their local schools and to ensure that no child is required to travel a long distance to an alternative school. I can see how the geography of Hounslow might make this necessary. The local authority area can be described as "*long and thin*" in shape. It extends for over ten miles from east to west but the northern and southern boundaries are in some places less than two miles apart and no more than four at any point. This can have the effect that there are fewer schools in the local authority area within a reasonable distance of

applicants' addresses, particularly for those living close to an external boundary, than would be the case if the shape of the area were more regular.

13. The local authority says that the size of the PAAs takes into account new housing developments, changing patterns of applications and population growth across the borough. The differences in the numbers of schools in a PAA are related to the capacity of the schools and the forecasts of pupil numbers. The local authority states that the demographic pressures that impact on the supply of primary school places continue to be challenging, particularly as there is an increase in the birth rate in the borough and major housing development is expected. The PAAs, it says, "*provide an opportunity to increase parental choice.*"
14. I consider that the local authority has provided a convincing explanation of the reasons it introduced PAAs into its admission arrangements. It has also confirmed that these reasons still apply. The PAA system, and the analysis that underpins it, is designed to ensure that no child is seriously disadvantaged if they cannot obtain a place at one particular local school, as they might be under an individual catchment area system. The arrangements therefore meet the Code's requirements of reasonableness in paragraph 1.14.
15. I must also consider whether the arrangements are in breach of the "Greenwich judgment", which is referred to in a footnote to paragraph 1.14, as quoted above. The objector does not refer specifically to this judgment, but the central argument of his objection is that he is unfairly disadvantaged in seeking admission to schools in Hounslow because he lives in a different local authority area.
16. It is the case that the external boundaries of the PAAs do, to all intents and purposes, follow the boundary of the London Borough of Hounslow. Much of the borough boundary is defined by obvious features, such as the River Thames, major trunk roads and the perimeter of Heathrow Airport. In other places, including the boundary with the London Borough of Ealing, close to where the objector lives, the reason for the boundary is less obvious, as it runs along residential roads and, in some cases, cuts across them. This is not unusual in urban areas.
17. The Code and case law do not say that the boundaries of catchment areas cannot in part follow the boundary of a local authority area. What the Greenwich judgment prohibits is the giving of priority for admission to a school simply because a pupil lives in the local authority area. This is not what Hounslow's arrangements do. It is residence within one of the five PAAs that gives priority for a place at all community schools within the PAA. Pupils who live in another part of Hounslow, that is, in a different PAA from the school for which they are seeking a place, and pupils who live in a neighbouring local authority area are in an identical position. They are considered under the final oversubscription criterion ("other children") and their priority for a place is determined by their distance from the school in exactly the same way. It is possible that

within this oversubscription criterion pupils living outside the Hounslow local authority area will have a higher priority for a place than those living within Hounslow, but in a different PAA, as they live nearer the school. For this reason, I do not consider that the arrangements are in breach of the Greenwich judgment, as the lower priority for places for schools in a Hounslow PAA is shared by those living outside the local authority area and those living within it, but in a different PAA.

18. I recognise that the objector may well be disadvantaged by the different oversubscription criteria used by the London Boroughs of Hounslow and Ealing. Pupils living in Hounslow who live close to the boundary will have a higher priority for some schools in Ealing, based on their distance from the school, than Ealing residents who live further away. The reverse does not always apply in respect of Hounslow schools, because of the PAA system. However, this does not of itself mean that Hounslow's arrangements should be called into question. Catchment areas are specifically permitted by the Code. The fact that a neighbouring local authority has chosen to use other oversubscription criteria for its community schools does not require a local authority to modify its arrangements.
19. Having established that the admission arrangements comply with paragraph 1.14 of the Code and do not breach the Greenwich judgment, there is a further test that I must apply. I need to consider whether the overall effect of the arrangements is fair, as required by paragraph 14 of the Code.
20. Although his objection relates to the arrangements for all community schools in the London Borough of Hounslow, the objector has provided detailed information about his personal circumstances. This illustrates the nature of the issue very clearly. The objector lives in the London Borough of Ealing, close to Belmont Primary School, which is located just across the borough boundary in Hounslow. Some addresses in Ealing are less than 0.4 miles from Belmont School. This school is the northernmost in the Chiswick PAA, which includes six community primary schools. Addresses at the southern part of the PAA are around 1.5 miles from Belmont School and are closer to all of the other five schools in the PAA. Nevertheless, applicants from the south of the PAA have a greater priority for a place at Belmont School over those who live much closer, both in the Borough of Ealing and in other PAAs in Hounslow.
21. The objector says that he is further disadvantaged because Hounslow residents are considered for places at schools in Ealing purely on their distance from the school. This has had the effect of making it more difficult for him to obtain a place at some local schools in Ealing, as some Hounslow residents will have a higher priority. Finally, the objector draws attention to the fact that measurements of distance for Hounslow schools are made on the basis of the "*shortest designated route*." The need to cross railway tracks in some cases adds to the distance applied to Ealing residents seeking a place in a Hounslow school. This is not the case for Hounslow residents seeking a place in

Ealing, as a straight line measurement is used.

22. In order to come to a conclusion as to whether Hounslow's admission arrangements are unfair in their effect, I consider that there are two questions I need to answer:
- (a) Is it an effect of the arrangements that some residents are unable to obtain a place at *any school* that is within a reasonable distance of their home?
- and
- (b) Is it an effect of the arrangements that some residents have no realistic chance of obtaining a place at *some schools* close to their home because those living significantly further away have a higher priority?

It is my view that if the answer to the first question is "yes", the arrangements would almost certainly be unfair. If the answer to the second question is "yes", a further consideration of whether this is an unfair outcome will be required.

23. It is important to emphasise that my consideration relates solely to the effect of Hounslow's arrangements, as these are the arrangements to which the objection relates. If the arrangements used by Ealing local authority do, as the objector contends, compound the disadvantage experienced by Ealing residents, this effect cannot be attributed to Hounslow's arrangements.
24. In the objector's specific case, Hounslow local authority reports that a place was offered at a school within one mile of his home, and this was accepted. I regard this as being within a reasonable distance. I have not been made aware of any other cases where the effect of Hounslow's arrangements has made it impossible for a school place to be obtained within a reasonable distance of an applicant's home. I therefore conclude that the answer to my first question is "no."
25. Again, with respect to the objector's specific case, Hounslow local authority responded by pointing out that Belmont School was heavily over-subscribed and that the last place was allocated to an applicant within the PAA who lived only 0.395 miles from the school. This was a similar outcome to the previous two years. Although, theoretically, an applicant living within the PAA 1.5 miles from Belmont School might obtain a place at the school ahead of an Ealing resident, in practice this does not happen. Therefore, in the objector's case, the answer to my second question is also "no."
26. However, with the help of data supplied by the local authority, I was able to investigate this question further. I found other community schools where places had been allocated in 2017 to children living in the PAA whose distance from the school was much greater than in the case of Belmont School. Two examples I identified were Heston

Primary School and Strand on the Green Infant School. I use these schools as actual examples that illustrate the outcomes of the admission arrangements that the objector describes as unfair. At these schools, which were both oversubscribed, the final place was allocated to a child living in the PAA, at a distance of 2.365 and 1.822 miles from the school respectively. In each case, there are addresses less than one mile away from the school, both in other local authority areas and in different PAAs in Hounslow. Applicants living at these addresses would not have been successful in obtaining a place at Heston or Strand on the Green Schools.

27. This information indicates that there are examples within Hounslow where the effect of the arrangements is such that the answer to my second question is "yes." However, this does not, in my view, necessarily lead to a conclusion that the arrangements breach the Code's requirement for fairness and it is to this consideration that I now turn.
28. Where catchment areas are used for individual schools, this sort of outcome is not unusual. Catchment areas are almost always irregular in shape to some extent. They reflect the pattern of roads and other geographical features and fit together like a jigsaw puzzle. As a result, children living further away from a school may sometimes have a higher priority for a place than those who live closer, if they live within a catchment area. In Hounslow, however, the PAA is the catchment area for a group of schools, rather than just one. This serves to magnify the disparity in distances from a school between those living within the catchment area who have priority for a place and those living closer, but outside it, who do not. It may at first glance seem somewhat peculiar that an applicant from a corner of a PAA should have priority for a school in the opposite corner, over others who live very considerably closer, both within and outside the borough. This may particularly be the case where there are other schools much closer to such an applicant, between where they live and the school in the opposite corner of the PAA. Some of the pupils who were successful in obtaining a place at either Heston or Strand on the Green Schools would also have had priority, under the PAA system, for several other schools closer to their homes.
29. However, that a set of admission arrangements produces some unusual effects does not necessarily require a conclusion to be drawn that they are unfair. In order to find unfairness, it is necessary to identify a group that is unfairly treated by the arrangements. The objector believes that residents of neighbouring boroughs who live close to the boundary with Hounslow are unfairly disadvantaged by the arrangements. It might be possible for a similar claim to be made by Hounslow residents who live close to the internal boundary of a PAA, who are unable to obtain places at relatively nearby schools in a neighbouring PAA, but none has made an objection to the arrangements.
30. It is certainly the case that the PAA system has the potential to

increase the benefit of residing in a particular location. Depending on the location of the schools within a PAA, it is likely that residents who live close to the centre of one of Hounslow's PAAs will have a better chance of obtaining a place at one of several schools that are close to their address than residents who live close to a PAA boundary. The latter group may find, as the examples I identified above illustrate, that it is impossible to obtain a place at a nearby school in a neighbouring PAA.

31. I am not persuaded, though, that the relative disadvantage experienced by the latter group of residents makes the arrangements unfair. Catchment areas will, by their very nature, produce advantage and disadvantage as a result of where people live. So too will criteria based on distance. In Hounslow, such disadvantage needs to be balanced by the fact that the PAA system aims to ensure that all children within the borough can be allocated a place relatively close to their home. The local authority emphasised that within the PAAs, distance from the school is used to determine priority for a place. It has concluded that the alternative of having a separate catchment area for each school continues to run the risk of creating greater disadvantage for children and their parents. At a time of changing patterns of housing development and pupil numbers, in a "single school" catchment system it would not be possible to guarantee a place for all children at their catchment area school. Those not allocated a place at their local school could face unreasonably long journeys to an alternative school that has places available. It is this that the PAA system aims to avoid and I consider that its benefits to applicants as a whole outweigh the relative disadvantage that some may suffer in obtaining a place at a preferred school. I note that the local authority has indicated that it intends to undertake a further review of the system before determining its admission arrangements for 2019.
32. Although those living outside the Hounslow local authority area do not benefit from the PAA system, I do not consider that they are treated unfairly either. It is not a fault of Hounslow's arrangements that the arrangements in Ealing, for example, do not provide the advantage that catchment areas can afford for local residents. For the avoidance of doubt, no criticism of Ealing Council is to be inferred. That local authority will have determined its own arrangements taking account of its own circumstances.
33. Therefore, I do not find that the arrangements are unfair in their effect and as I have also found that they comply with the requirements of the Code relating to catchment areas, I do not uphold the objection.
34. When I pointed out my concern about the published arrangements for admission to year 3, the local authority confirmed that the highest priority is given to looked after children and previously looked children. This is a requirement of the Code and the arrangements did not clearly reflect that requirement. The local authority undertook to rectify what had been published. The Code requires that it does so.

Summary of Findings

35. The arrangements meet the Code's requirements relating to catchment areas. The Priority Admission Areas are designed to minimise the disadvantage that might otherwise be suffered by children and their families unable to obtain a place at their closest school, due to changing demographic pressures. Although the PAA system can magnify the disadvantages of living outside a PAA, for residents living both outside and inside the borough boundary, I do not consider that any group is unfairly treated by the arrangements. Therefore, I do not uphold the objection.

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 for September 2018 determined by the London Borough of Hounslow for community primary schools in Hounslow.

37. I have also considered the arrangements in accordance with section 88I(5) and find one matter which does not conform with the requirements relating to admission arrangements in the way set out in this determination.

38. 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: 25 September 2017

Signed:

Schools Adjudicator: Peter Goringe