



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3381

Objector: A member of the public

Admission Authority: Newlands Girls' School, Windsor and Maidenhead

Date of decision: 20 August 2018

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 2019 determined by the governing body of Newlands Girls' School, Windsor and Maidenhead.

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 Newlands Girls' School (the school), an academy school for girls between the ages of 11 and 18, for September 2019. The objection is to the fairness of the arrangements.
2. The local authority for the area in which the school is located is The Royal Borough of Windsor and Maidenhead. The local authority is a party to this objection.

Jurisdiction

3. The terms of the Academy agreement between the 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 governing body on behalf of the academy Trust, which is the admission authority for the school, on that basis. The objector submitted her objection to these determined arrangements on 17 April 2018. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that 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 17 April 2018;
 - b. the admission authority's response to the objection and supporting documents;
 - c. the comments of the local authority on the objection and supporting documents which it has provided;
 - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2018;
 - e. maps of the area identifying relevant schools;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the meeting at which the governing body of the school determined the arrangements; and
 - h. a copy of the determined arrangements.

The Objection

6. The objector complains that the school's arrangements, in the context of the pattern of admissions to all secondary schools across the borough of Windsor and Maidenhead, result in an unfairness to some children. She cites paragraph 14 of the Code which says that:

*".....admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair....."*

7. The objector says that she does not consider the school's arrangements to be unlawful or to fail to comply with the Code in themselves, but that *"put together with all the admission arrangements in Maidenhead"* an unfairness arises in the admissions to the school. If the arrangements did cause an unfairness, this would contravene paragraph 14 of the Code, as the objector has pointed out, and they would be unlawful as a result. I have considered the objection on that basis.
8. The objector is a parent governor at a primary school, Oldfield Primary, which is located at the periphery of the local authority area. She considers that children attending this primary school and any others similarly located, are disadvantaged in achieving a place at Newlands School compared to other children living in the borough because of the oversubscription criteria used by Newlands.

Background

9. The objector has told me that all of the secondary schools in

Maidenhead are located in the West and North of the town. Each, she says, is its own admission authority, and each draws pupils from across the town, which each defines as its designated area for admissions. I am satisfied that a designated area is what the Code defines as a catchment area in paragraph 1.14. This means that the designated area for the school must meet the requirements laid down for catchment areas, that is to say “*designed so that they are reasonable and clearly defined.*” Oldfield Primary School is located towards the eastern edge of Maidenhead and therefore is near to the edge of the catchment area used by nearly all the secondary schools in the town, including the school whose admission arrangements are the subject of the objection.

10. The local authority has been most helpful in providing me with a comprehensive description of the situation which gives rise to the objection. It has confirmed that there are six own admission authority secondary schools which serve the town of Maidenhead, and that five of them share a single designated area, which is essentially the town itself together with a small part of neighbouring Wokingham. The sixth has introduced a small, but different, designated area for the first time for admissions in September 2019. The local authority has also explained that relatively few children move at secondary transfer from Maidenhead to schools in other parts of the authority area such as Windsor.
11. The local authority has also helpfully summarised for me the admission arrangements of the six Maidenhead secondary schools for both September 2018 and 2019. Their oversubscription criteria follow a common approach. There are some variations of detail which as I come on to consider below are pertinent to this objection. For admissions in September 2019 four of the schools, including Newlands Girls’ School, give priority to children living in their designated area then to any siblings who do not live in the area and then to children attending a feeder primary school but not living in the designated area or having a sibling. Newlands’ oversubscription criteria can thus be summarised as follows:
 - i. Looked after and previously looked after children
 - ii. Children with exceptional social or medical need
 - iii. Children living in the designated area and having a sibling at the school
 - iv. Children living in the designated area
 - v. Children with a sibling at the school
 - vi. Children attending a linked primary school (as listed)
 - vii. Children whose parents have expressed a preference for single-sex education
 - viii. Other children

Within each category, applicants are ranked by distance between home and school.

12. Two other schools have, in essence, split residence in the designated area in two: children living in the designated area and attending a “linked feeder school” and children living in the designated area and not attending a “linked feeder school”. The former group have a higher priority than the latter. It is this “priority linked feeder school” status that the objector argues should be given to Oldfield Primary School. The objector notes that some other “village” schools (as the local authority terms them) have been given such status for admission to two other secondary schools in Maidenhead as I outline above.
13. In the case of Newlands, Oldfield Primary School is one of the named linked primary schools given priority under (vi), but this is taken into account only after consideration has been given to all children living in the designated area and, indeed, any siblings living outside that area. In September 2018 as in previous years, the school reached and exceeded its PAN within the group living within the designated area, under criterion (iv). Distance from the school is used as a tie-breaker if the school is oversubscribed in any of the priority categories. So it was the distance of their home to the school which determined whether children who had attended Oldfield Primary School secured a place, not the primary school they had attended and whether or not it was a linked feeder school.
14. The objector has provided me with large amounts of data concerning school admissions across Maidenhead, and to the school. These figures have been seen by the school, which has offered no direct comment on them, and by the local authority, which does not dispute their accuracy. One such data set shows the pattern of admissions to Newlands Girls’ School for the last 13 years. The school has been oversubscribed throughout this period. They show that since a change in the designated area of the school in 2010, Newlands Girls’ School has essentially been oversubscribed from within its new designated area, which is that described above, Maidenhead as a whole. The local authority has told me that since 2009, five of the six secondary schools have moved to adopt the same designated area. Prior to this change, the school was not oversubscribed from within its previous designated area. This consisted of two parts of the town (described to me by the objector) which were also the areas used by the town’s school for boys, Desborough College.

15. Before it adopted its new catchment area, Newlands Girls' School admitted significant numbers of children (around 20 per year) on the basis of their attendance at a feeder primary school, and larger numbers (around 50 in most years) because parents had expressed a desire for single sex education. After the change, the number of children admitted under each of these oversubscription criteria has never exceeded single figures, and in most years each has been zero. For reasons which I will explain, I will consider below the position arising from the broader picture across all the secondary schools in Maidenhead.
16. However, it can easily be seen that, compared to the position some years ago, girls living further from the school are less likely now to be able to secure a place there. All those living in Maidenhead have been the group of applicants for a place that has resulted in the school being oversubscribed, and priority is given to those living closer to the school. The school is not able to offer places to all who live in its designated area and would like a place there. It follows that very few, if any, places now in practice remain for children living at the edge of the new designated area or outside the area but with a sibling at the school, or who live outside the catchment area but attended a designated feeder primary school or because they specifically seek single sex education.
17. The objector's supporting papers contain data showing that in the three years since 2016, the furthest distance from which a child has been admitted to the school has decreased year on year from 4.1 miles in 2016 to 1.8 miles in 2018, largely as a result of infill housing, she says. She points out that Oldfield Primary School is 2.2 miles from Newlands Girls' School, and that a position has now been reached which means that girls who live in the designated area, have attended Oldfield Primary School and who live near the primary school are not able to get a place at Newlands Girls' School on secondary transfer, even though the primary school which they have attended remains a linked feeder school.
18. This is the situation which the objector says gives rise to unfairness. She has emphasised the nature of this perceived unfairness by providing figures which for the percentage of first preferences which were met for children transferring to secondary school from Oldfield Primary School with those for the borough as a whole. The local authority has given me comprehensive information about the extent to which preferences for secondary school places expressed by parents of children attending Oldfield Primary School have been met in each year since 2013, and the equivalent figures for Maidenhead as a whole. The objector has seen and commented on these figures and has added information about girls transferring from Oldfield Primary School which the local authority has not challenged. In summary, the data which I have before me as a result of these exchanges is shown below:

Percentage of expressed preferences met on transfer to secondary

schools in September 2018			
All Maidenhead Schools		Oldfield Primary school	
First preferences	First or second preferences	First preferences	First or second preferences
80	90	59 (both sexes) 40 (girls)	85 (both sexes) 70 (girls)

19. Within these figures, the local authority says that three girls from Oldfield Primary School obtained a place at Newlands Girls' School in September 2018, seven having expressed a preference for a place there. The objector has stated that for two of these three girls, a place was obtained only because the parents moved house to be closer to the school.
20. The local authority has told me that it understands the reason behind the objection, and has explained the potential changes to the admission arrangements of Newlands Girls' School that might be made and its view about the impact of such changes. In summary, its stance is that any changes *"will simply result in a different group of children not getting into Newlands Girls' School"*. The objector accepts that this is so, but asks if it is fair that it is always children from the same school that are at a disadvantage. The local authority has forwarded to me a statement made jointly by itself and the Headteachers of five of the six Maidenhead secondary schools. This statement expresses sympathy with residents living in the periphery of the borough in achieving their first preference secondary school under the current admission arrangements adopted by the schools, but offers no solution.
21. The local authority has also summarised for me the anticipated pressure for secondary school places in Maidenhead in the years up to 2032. This has led it to conclude that it will need to provide a new seven form entry secondary school and to expand further provision on existing secondary school sites during that period. The potential for expansion of Newlands Girls' School is one such expansion under active consideration. A report made by officers to the council's Cabinet in June 2018 stated that a five percent surplus in secondary school places is currently forecast for 2019 and 2020 for Maidenhead as a whole, even without there being further expansion. Oldfield Primary School has previously been expanded from one form of entry to two forms of entry, with the first transfer to secondary school of the larger number of children taking place in September 2019.

Consideration of Case

22. The matter before me is whether the admission arrangements of

Newlands Girls' School are unfair and in breach of paragraph 14 of the Code. For the arrangements to be unfair, they would need to give rise to an unfairness. It is possible that this could be the case because of their effect in the local context, even though they might otherwise seem to comply with the Code.

23. I have therefore sought to understand in greater detail the impact of the arrangements on the group of children in question, which is those seeking to transfer to the school from particular parts of Maidenhead. The statement made by the group of Headteachers recognises that there is a “*challenge*” which affects those living in the south east of Maidenhead. The local authority has itself pointed out to me that children from another school in the same area as Oldfield Primary School, namely Holyport Church of England Primary School, also find it difficult to secure a place at the school. One in eight applications from girls who had attended that school were successful in 2018.

24. However, such difficulty is in itself unlikely to cause the admission arrangements of a particular school to be unfair. The Code at paragraph 1.6 requires that all admission authorities

*“...**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.”*

So admission arrangements **must** provide for some children to be given a lower chance of securing a place than other children, if a school is oversubscribed. The Code of course goes on to specify how admission authorities are to construct oversubscription criteria, and in particular what they must not take into account when giving priority to some children over others. I have looked at the school's admission arrangements, and I have had no concern that any of these requirements are breached by them.

25. Neither do I believe it relevant to my consideration of the objection whether it is the same group of children that are put at a disadvantage in relation to admission to a particular oversubscribed school year on year, as the objector would have me accept. Such is always likely to be the case with any set of oversubscription criteria. The objector has impressed on me her view that children from Oldfield, particularly girls, “*face an identifiable and predictable disadvantage compared to other Maidenhead children*” and that Newlands Girls' School is in a position to address this disadvantage by making changes to its admission arrangements. The question which I must answer is whether this disadvantage results in an actual unfairness to the children in question. Only then would the school's arrangements be unfair and not in compliance with what the Code requires. I have therefore sought further information about the position faced by children transferring from Oldfield Primary School to secondary school in the two most recent years.

26. There has been no suggestion made to me that children from Oldfield Primary School have been, or will be, unable to secure a secondary school place in Maidenhead in coming years. The group of

Maidenhead secondary Headteachers has pointed out that all six Maidenhead secondary schools are currently rated “good” or better by Ofsted. The objector has also pointed out to me that one of the schools has a well below average Progress 8 score and that in practice, girls from Oldfield Primary School have a “choice” of only two schools, of which this school is one. The local authority has confirmed that Oldfield residents either were, or could have been, offered places at the two schools secondary schools identified by the objector in each of the last two years, with Desborough College also available to boys. Some girls also found places at Newlands in each year, although the objector has said (as I indicated earlier) that in 2018 two of the three no longer lived in the area, and has commented subsequently that the third was admitted only after a successful appeal.

27. There will be more girls from Oldfield Primary School than previously seeking places at secondary school, and therefore potentially at Newlands Girls’ School, from September 2019 onwards. The likelihood given the information about current trends which has been given to me is that very few will be able to secure a place there, and that if this preference is indeed expressed by parents, that the currently relatively low first preference success rate will be reduced further. As I have explained however, my concern is not whether girls from Oldfield Primary School have a lower chance of obtaining a place at Newlands Girls’ School than those living elsewhere in Maidenhead, but whether they are suffering an unfairness as a result of the school’s admission arrangements.
28. A potential unfairness would arise if the arrangements made it unlikely that girls could secure a place at the school, in a context in which no alternative school was available or if unacceptable distances had to be travelled to secure a school place. I should say, at this point, that the progress 8 score or the Ofsted judgements about the schools is not a matter I can take into account. As it happens, at the present time, there are places available at secondary schools which are accessible to girls leaving Oldfield Primary School. One of those, for example is Cox Green School (which has an above average Progress 8 score) which has been available to both boys and girls who have attended Oldfield Primary School in each of the last two years. According to Google maps, Cox Green is 2.9 miles by road from Oldfield primary whereas Newlands is 2.7 miles distance. By straight line distance according to the Department for Education website, both schools are just over two miles from Oldfield. The overall projected position concerning the supply of secondary school places in coming years in Maidenhead was described above, and indicates as far as I can see that this availability is likely to remain in place, at least in the short term.
29. It is of course not open to the adjudicator to require an admission authority to make specified changes to admission arrangements, only to consider whether its determined arrangements are compliant with the Code and the law relating to school admissions. I emphasise this as for most schools there will be more than one possible set of Code compliant arrangements and there will be different views as the best set of arrangements in any case. It is for the admission authority to

determine its arrangements (having carried out any necessary consultation) and it is for me to test those determined arrangements against the requirements relating to admissions. In this particular case, I am considering whether the arrangements are fair to girls who have attended Oldfield Primary School. The local authority has provided me with its assessment of what would happen if the arrangements were changed in the way suggested by the objector, based on what this would have meant in the 2018 admissions round. It summarises the effect in the following terms:

“Although residents in the Oldfield designated area would benefit, residents in the north eastern side of the town would be excluded, even though they might live nearer to Newlands.”

30. The objector has pointed out that this latter group of children have access to one of the Maidenhead secondary schools not in practice available to Oldfield children, and that the change would “...*increase fairness,making the number of realistic secondary school options more equal for all children across Maidenhead ...*”
31. I concur with this conclusion, and the potential change in the admission arrangements for Newlands Girls’ School which has clearly been widely discussed between the parties to this objection and by the interested parties locally is open to it to make. As I have set out, however, my jurisdiction is only to determine whether the arrangements which are in place contravene what is required.
32. I have considered carefully whether the arrangements cause there to be an actual unfairness, and I have described above why I do not consider this to be the case. Children who transfer from Oldfield Primary School do currently have reasonable access to at least one local secondary school. That being the case, I do not believe that there is sufficient cause to consider the arrangements unfair because the disadvantage which they cause to children living in the Oldfield area is so great that it should be transferred to other children in Maidenhead. It is evidently the case that changing circumstances mean that girls who transfer from Oldfield Primary School and who remain living in the area will find it very difficult to secure a place at Newlands Girls’ School. However, the law and the Code do not – and in fact could not - provide for all parents to have the same extent of access across the school system, and my view is that the disadvantage to girls who have attended Oldfield Primary School is not such that it causes the arrangements to be unfair. I do not uphold the objection.

Summary of Findings

33. I have set out above my reasons for concluding that the arrangements are not unfair, and therefore why I do not uphold the objection.

Determination

34. 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 2019 determined by the governing body

of Newlands Girls' School, Windsor and Maidenhead.

Dated: 20 August 2018

Signed:

Schools Adjudicator: Dr Bryan Slater