



Office of
the Schools
Adjudicator

Determination

Case reference:	ADA3576 Bentley Wood High School, Harrow
Objector:	Harrow Council
Admission authority:	The Local Governing Board of Bentley Wood High School on behalf of The Bentley Wood Trust.
Date of decision:	29 July 2019

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 2020 determined by the Local Governing Board for Bentley Wood High School, Harrow.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways 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 the local authority, (the objector), about the admission arrangements (the arrangements) for Bentley Wood High School (the school), an 11 to 18 girls' academy school in Harrow for September 2020. The objection is to the inclusion in the oversubscription criteria of priority for girls from a named feeder primary school.

2. The local authority for the area in which the school is located is the London Borough of Harrow. The local authority is the objector in this case. The other parties to the objection are the school and the academy trust.

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 local governing board, which is the delegated admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 9 May 2019. 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. details of the consultation carried out with reference to the 2020 arrangements;
- b. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- c. a copy of the determined arrangements;
- d. the objector's form of objection dated 9 May 2019 and subsequent correspondence;
- e. the school's response to the objection and subsequent correspondence;
- f. the local authority's composite prospectus for admissions to secondary schools in 2019; and
- g. a map of the area identifying relevant schools;

The Objection

6. The objection relates to the inclusion of a new oversubscription criterion in the 2020 arrangements at priority six which states that; *"Children transferring from primary schools within the Academy Trust – up to 20 places will be allocated to children from Aylward Primary School allocated to the girls who live closest to the school"*.

Other Matters

7. Having considered the arrangements as a whole it would appear that the following matters do not conform with requirements.

- a) Oversubscription 5; *"Children of staff – Girls where their parents(s) has been employed by the academy trust"* (Paragraph 1.39 of the Code)

b) Waiting list information (Paragraph 2.14 of the Code).

Background

8. The school is an 11-18 academy for girls in Harrow. It has a PAN of 224 and has 1170 girls on roll. The school is regularly oversubscribed with 393 applicants for the 224 places in 2019. The school consulted on changes to the admission arrangements between 17 December 2018 and 27 January 2019. The one response received during the consultation was from the local authority which outlined its concerns which were the same as those in the current objection.

9. The oversubscription criteria for admissions in 2019 can be summarised as follows;

- 1) Looked after and previously looked after girls
- 2) Medical and social needs of the child
- 3) Medical and social needs of the parent
- 4) Siblings
- 5) Children of staff employed by the academy trust at the academy.
- 6) Random Computer selection – except for the 60 places in 7 below
- 7) Distance from home to school – 60 places allocated to the girls living closest to the school.

Following consultation, the governing board discussed the submission from the local authority and decided to go ahead with the proposed changes. The oversubscription criteria for admissions in 2020 can be summarised as follows (changes from 2019 are underlined);

1. Looked after and previously looked after girls
2. Medical and social needs of the child
3. Medical and social needs of the parent
4. Siblings
5. Children of staff employed by the academy trust
6. Children transferring from primary schools within the Academy Trust – up to 20 places will be allocated to children from Aylward Primary School allocated to the girls who live closest to the school
7. Random Computer selection – except for the 60 places in 8 below
8. Distance from home to school – 60 places allocated to the girls living closest to the school.

Consideration of Case

10. In its submission to the governing board during the consultation period, the local authority requested that criterion six be removed from the arrangements. The local authority stated that it was not aware of a particular connection with Aylward over and above it being part of the same multi-academy trust (MAT). The local authority pointed out that the school was the only non-faith girls' school in the area and it did not consider it appropriate to have a link with a feeder school just because it was part of the same MAT. The local authority suggested that girls from other local schools may be disadvantaged by the criterion. It provided a list of schools from which girls had been admitted to the school in 2017 and 2018.

11. At the governing board meeting on 6 February 2019 the governors discussed the submission. In answer to the local authority's point that girls from local schools may be disadvantaged, the governors said that priority is given to 60 girls living closest to the school and that some of these girls will attend Aylward if they also live close to the secondary school. The minutes record that the governors said that there is a strong partnership between the two schools and many joint activities take place which support the two schools. The governors did not see the relevance of the comment about the school being the only non-faith girls' school.

12. After discussion, the governing board felt strongly that the primary school should be named in the policy and therefore determined the arrangements for admission in 2020.

13. In its form of objection the local authority expressed the same concerns as those in the consultation response; that it was not aware of any particular connection with Aylward Primary School other than being members of the same academy trust and that the inclusion of the criterion would unfairly disadvantage girls at other local primary schools.

14. The objector cites paragraph 1.15 of the Code which states "*Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.*" The objector believes that the choice of feeder school has not been made on reasonable grounds because he is not aware of any particular links between the schools except that they are members of the same MAT. The objector goes on to say that there are "*many other schools that are closer to the school that have not been considered or listed as feeder schools. There are 10 primary schools in Harrow that are closer based on straight line measurement to the school*".

15. The Chair of the Trust responded to the objection and explained that the Trust is a single employer with a single annual report and financial statements for both the schools in the Trust. As a single employer the Trust falls within the remit of having more than 250 staff and therefore is required to produce a Gender Pay Gap report. The two trust schools share many services including auditors, health and safety providers, cleaning, catering, IT and judicial services. The schools are governed under the same Articles of Association and scheme of delegation and the trust board is made up of four governors from the secondary

school and three from the primary school. The clerk to the governors oversees common policies for both schools and governors from both schools attend governor meetings at both schools, in addition there has been combined governor training on exclusions, managing allegations of abuse against staff, safeguarding and the Prevent initiative.

16. I have considered these elements of ‘connection’ between the two schools and I do not consider them reasonable grounds for including the primary school in the oversubscription criteria for the secondary school. There are many academy trusts across the country which share similar services, common policies and practices and joint governor training and yet the schools within these trusts are geographically scattered, often country-wide. This demonstrates that such ‘connections’ can work well but do not necessarily reasonably justify the inclusion of the primary schools as designated feeder schools. Therefore, these connections in themselves would not be sufficiently reasonable grounds to justify the oversubscription criterion.

17. That is not the end of the matter, however, as the Chair of the Trust goes on to list links between the educational activities of the two schools. Students from the secondary school support those in the primary school through sports and competitions including Spelling Bee and the Forest School. Primary children from year five (Y5) use secondary facilities in Science, Technology, Engineering, Arts and Mathematics at the school. Primary children attend the secondary school musical productions, they also use the school’s grounds for sports and its school minibus. The schools have curriculum links including shared writing moderation and arts skills development in Y5. Teachers from English and Modern Languages from the secondary school teach in the primary school regularly. The senior leadership teams from both schools share learning walks and are working together on aspects of the Curriculum and the new Ofsted framework. There are plans for teaching assistants from the secondary school to spend time in the primary school with a focus on how phonics is taught.

18. I have considered these elements of the ‘connection’ between the two schools and I believe that they constitute reasonable grounds for the inclusion of the oversubscription criterion. There are clearly good and extensive links between the schools over and above the membership of the same MAT which demonstrate that pupils and staff of the two schools are working together. I therefore consider that the decision to include the school in the oversubscription criteria as a named feeder school is made on transparent and reasonable grounds.

19. The objector further cites paragraph 1.8 of the Code which states that *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly a child from a particular social or racial group.”* The local authority suggests that the new criterion will disadvantage girls from local schools, it suggests that the equalities implications have not been properly considered as the school is the only non-faith girls’ school in the area.

20. I have studied the admission data for 2017, 2018 and 2019. In September 2017 pupils from 60 different schools were admitted to the school; in September 2018 pupils from 77 different schools were admitted. An analysis of the numbers coming from each school shows that there are eight schools from which more than ten pupils were admitted over the two year period ranging from 16 to 39. A summary of these admissions and the distance between the junior school and the school is shown in the table below.

Primary School	Numbers admitted 2017	Numbers Admitted 2018	Distance from secondary school in miles
Aylward	11	10	2.2
Belmont	12	9	1.5
Cedars Manor	16	12	1.7
Elmgrove	11	7	2.7
Kenmore Park	8	8	3.0
Marlborough	7	10	3.2
Stanburn	10	12	1.9
Weald Rise	20	19	1.3

21. The 2017, 2018 and 2019 arrangements admitted girls with Education Health Care Plans (EHCP), those who are looked after or previously looked after and girls from families with special medical or social needs as top priorities and the numbers in these groups are relatively small. Priority is then given to siblings and 60 places to those living nearest to the school, the remainder are allocated by random allocation.

22. In September 2018 the last girl offered a place at the school lived 1.9 miles from the school. Although I do not have the detail of where children attending these primary schools actually live I have taken the distance between the primary and the secondary as a general proxy indicator. There are 60 places for those living nearest to the school who do not fall into the sibling category therefore it seems reasonable to assume that the nearer the primary school is to the secondary school the more likely it is that the allocation of places is due to the sibling or distance criteria. Weald Rise is the nearest school and 39 girls were admitted in the two-year period. Weald Rise is 1.3 miles from the school and therefore it is likely that most girls were admitted from this school as siblings or as one of the 60 girls admitted by distance from the school. There are three other primary schools within the 1.9 mile distance and it is likely that many girls are from these schools are allocated places as siblings or within the 60 girls allocated by distance. Of the four remaining schools in the list, three are situated 3, 3.2 or 2.7 miles away from the school and therefore it is likely that

admissions were not on distance but on sibling priority or random selection. The remaining school is 2.2 miles away and is the school which has been added to the arrangements as a feeder school. Only those girls living within 1.9 miles from the school could have been admitted as one of the 60 within the distance criterion and it is possible that some girls will have been allocated within this criterion from this school. Others will have been admitted as siblings.

23. For admissions in 2018 and 2019 the admission per criterion were as follows;

Criterion	Number Offered in 2018	Number Offered in 2019
Looked after/previously looked after	0	2
Medical needs of the child	0	0
Medical needs of the parent	1	0
Siblings	53	70
Children of staff	0	1
Random Allocation	110	87
Distance	60	60

24. The last girl offered a place for September 2019 lives 1.6 miles from the school. A comparison of the two years shows very different numbers of siblings being admitted and this has an impact on the number who are allocated a place via the randomly selected criterion. I have taken an average over the two year period in order to predict the possible impact of the new criterion. If 62 siblings are given priority this would mean that there would be 98 places left for the feeder school and the random allocation. When the feeder school criterion is applied for September 2020 it will reduce the number of girls who can be allocated places by random allocation. The maximum reduction would be 20 but it is likely to be fewer than 20 because some girls will be admitted either as siblings or as one of the 60 who live nearest to the school. Therefore the approximate number of places of 98 would be reduced by a maximum of 20 leaving approximately 78 places to be randomly allocated. It is not possible to predict which girls will be affected by this. It will certainly not be siblings or those living nearest to the school. This reduction in the number of randomly allocated places will disadvantage some applicants although, because it is random it is impossible to identify any particular group, geographical area or primary school which may be affected by this.

25. The local authority makes the point that the school is the only non-faith girls' school in the area. The authority clearly would like parents to have a choice of faith or non-faith and single sex or mixed schools but there is no requirement by law for this to be the case;

in fact many areas have neither single sex nor faith schools. The inclusion of a feeder school in the priorities will reduce the number of girls being admitted through random selection and I have looked at the situation of other secondary schools to see where the unsuccessful girls may be found a place. There are four other secondary schools which are within 1.5 miles of the school. One is a Catholic girls' school and one is a Hindu mixed school. If parents do not wish their daughter to go to a school which has a religious designation then there are two other schools in the area which are non-faith and mixed; Whitefriars (1.4 miles from the school) and Hatch End (1.3 miles from the school). In 2018 six children who did not express a preference for the school were allocated a place as the nearest school with a vacancy to Whitefriars and 29 to Hatch End. Even after this allocation Hatch End did not reach its published admission number and retained vacant places.

26. I am therefore satisfied that the small number of girls who are not allocated a place under the random selection criterion who would have been had the feeder school criterion not been in place are in a good position to be allocated a place at a local school and certainly that they would not need to travel unreasonable distances to secure a school place.

Other Matters

27. Having considered the arrangements as a whole it would appear that the following matters do not conform with requirements;

- a. Paragraph 1.39 of the Code states that *“Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances: where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage”*. The Code is clear that this refers to members of staff employed at a specific school only and not staff employed by the same employer such as an academy trust. The 2020 arrangements are not therefore compliant with the Code because it refers to staff who are employed by the academy trust and this requires amendment.
- b. Paragraph 2.14 of the Code states that *“Each admission authority **must** maintain a clear, fair and objective waiting list until at least **31 December** of each school year of admission....”*. The 2020 arrangements do not include a time-frame for the waiting list in line with the Code and this may be unclear for parents. This also requires amendment.

28. I am aware that the Trust is keen to amend the arrangements in line with the Code and I am grateful for their suggestions. Paragraph 3.6 of the Code states that *“Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of the Code, admission law, a determination of the Adjudicator or any misprint in the admission arrangements”*. By virtue of this paragraph, the local governing board of the school as its admission authority may amend the arrangements in line with paragraph 25 above.

Summary of Findings

29. I conclude that the named feeder school has been selected on reasonable grounds reflecting the wide range of staff and student links and shared activities and in a transparent way which complies with paragraph 1.15 of the Code. I therefore do not uphold this element of the objection.

30. As a result of the introduction of the feeder school criterion a small reduction will be made in the number of applicants who are selected by random allocation. I have not been persuaded that this reduction will disadvantage local children as the priority for 60 places allocated to the girls living nearest to the school is still in place nor will it disadvantage a particular social or racial group. I am therefore of the view that the arrangements comply with paragraph 1.8 of the Code. I am satisfied that there is appropriate provision locally for the small number of girls who will not be allocated by random selection. I therefore do not uphold this element of the objection.

Determination

31. 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 2020 determined by the Local Governing Board for Bentley Wood High School, Harrow.

32. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

33. 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: 29 July 2019

Signed:

Schools Adjudicator: Ann Talboys