



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3554 and ADA3555

Objector: Two parents

Admission authority: Leeds City Council for Carr Manor Primary School and all other community and voluntary controlled primary schools in Leeds

Date of decision: 16 August 2019

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2020 determined by Leeds City Council for Carr Manor Primary School and all other community and voluntary controlled primary schools in Leeds.

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

15. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), objections have been referred to the adjudicator by two parents (the objectors). The first objection is to the admission arrangements for Carr Manor Primary School (Carr Manor), a community school for children aged 2 to 11 for September 2020. The first objection is to the catchment area of the school. The second objection is to the catchment areas of Carr Manor and all other community and voluntary controlled primary schools in Leeds. Both objections said that the consultation process undertaken before the introduction of the catchment areas did not meet the requirements of the Code.

16. The local authority for the area in which the school is located is Leeds City Council (the Council). The Council is a party to this objection. Other parties to the objection are the governing board of Carr Manor Primary School and the objectors.

Jurisdiction

17. These arrangements were determined under section 88C of the Act by the Council, which is the admission authority for the schools on 13 February 2019. The objectors submitted their objections to these determined arrangements on 1 May 2019. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

18. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

19. The documents I have considered in reaching my decision include:

- a) the objectors' forms of objection dated 1 May 2019, associated documents and subsequent correspondence from them;
- b) the arrangements;
- c) minutes of the meeting of the Executive Board of Leeds City Council at which the arrangements were determined;
- d) the Council's response to the objection and supporting documents;
- e) the Council's response to my other enquiries;
- f) maps of the area identifying relevant schools.

The Objection

20. One objector criticised the consultation process undertaken by the Council on the arrangements, she quoted paragraph 1.45 of the Code which says "*Failure to consult effectively may be grounds for subsequent complaints and appeals.*" She also said that the arrangements were not "*fair, clear and objective*" as required by paragraph 14 of the Code, specifically concerning the design of the catchment areas which paragraph 1.14 of the Code requires to be reasonable.

21. This objector also said that the arrangements were unfair to children who do not live in any of the proposed catchment areas. This objector went on to say that the arrangements were "*specifically discriminatory*" to children living in an area in the north of Leeds "*because the only possible school where these children 'may' be considered 'in*

catchment' is a vegetarian Sikh ethos school'. Her final point concerned the effect of the arrangements on the same part of Leeds as the other objector.

22. The other objector said that the Council had not *"properly listened to and evaluated the 105 consultation responses provided in this area of North Leeds in response to their consultation on primary school admission proposals."* He said that his child's address was not included in the catchment area of any local schools and the boundaries did not respect local community boundaries specifically referring to the catchment area for Carr Manor.

Other Matters

23. Two of the three supplementary information forms (SIFs) included in the arrangements ask for the name and address of other people with parental responsibility for the child as well as those of the person completing the form. Paragraph 2.4 of the Code prohibits requesting personal details about parents and families.

Background

24. There are 229 primary schools within the boundary of Leeds City Council. Between 22 October and 7 December 2018, the Council consulted on new admission arrangements for the 108 community and voluntary controlled primary schools in the city for which it is the admissions authority. The main change was to introduce new catchment areas for all of these schools as the fourth oversubscription criterion. Previously, priority had been given in the fourth criterion on the basis of nearest school to the child's home. The oversubscription criteria determined by the Council can be summarised as follows.

- 1a. Looked after and previously looked after children.
- 1b. Pupils without an Education, Health and Care Plan (EHCP) but who have special needs that can only be met at a specific school.
2. Children with siblings attending the school.
3. Children attending Rothwell Haigh Road Infant School, for Rothwell Victoria Junior School.
4. Children living in the catchment area.
5. Other children.

Children living closest to the school receive priority within each criterion, with lots being drawn if a tie breaker is required.

12. From 1 September 2019 Carr Manor will be known as Manor Wood Primary School, but I have referred to it as Carr Manor in this determination as that was its name at the time the objections were made and at the time of completing this determination.

Consideration of Case

13. In previous years following looked after and previously looked after children, children with special needs or those who were siblings, the fourth oversubscription criterion was children for whom the school was their nearest. Other schools where priority was not based on proximity, for example schools which admitted on the basis of faith, were omitted from consideration when deciding which a child's nearest school was.

14. This created a polygonal area around each community and voluntary controlled school living within which gave a child priority under the fourth oversubscription criterion. Although these were not described as catchment areas in the former arrangements, these polygonal areas do meet the definition of a catchment area found on page 39 of the Code: "*A geographical area, from which children may be afforded priority for admission to a particular school.*" This approach is not the same as basing priority on distance between home and school.

15. This process will also create polygonal areas around each foundation, academy or other type of school which was taken into account when constructing the polygonal catchment areas for the community or voluntary controlled schools. Children living in these areas would not have had priority for any community or voluntary controlled school under the fourth criterion. Every address in Leeds would have fallen into either a polygon created for a community or voluntary controlled school or a polygon surrounding another type of school.

Consultation

16. The Code sets out the requirements for consultation when an admission authority is proposing to change admission arrangements. Paragraph 1.42 of the Code sets out when consultation is required and paragraph 1.43 sets out the required length of consultation and the dates between which it must take place. The subsequent paragraph lists the required consultees and paragraph 1.45 sets minimum requirements for the conduct of the consultation.

17. The last sentence of paragraph 1.45 which says "*Failure to consult effectively may be grounds for subsequent complaints and appeals*" was quoted by the objectors. One of the objector's was concerned that maps used in the consultation were inaccurate and did not show areas which "*have been removed from or changed catchments*" leading to parents in those areas possibly being misled and not responding to the consultation.

18. Both objectors were of the view that the Council did not consider the responses to consultation properly. I have read the 14 page report on consultation (the consultation report), and its appendices that was presented to the Executive Board on 13 February 2019. This noted that there were 572 responses to the consultation and included comments from the public on the proposed catchment areas for specific schools. The consultation report referred to the accuracy of the maps and concerns that some areas of the city were

not included in any of the proposed catchment areas; indeed this was noted by one objector.

19. I am satisfied that the Council met the requirements of the Code regarding consultation and that it took into account all of the matters raised before determining the arrangements. I do not uphold the aspects of the objection relating to the consultation.

20. Just as it is possible for an admission authority to consult badly and subsequently determine lawful admission arrangements, it is possible for an admission authority to consult correctly and subsequently determine unlawful admission arrangements. I will now consider the parts of the objections relating to the catchment areas overall.

The catchment areas overall

21. The first objector quoted from paragraph 14 of the Code which says that admission arrangements must be “*fair, clear and objective*”, saying that “*the Council has been unable to explain the objective criteria which have been used to define the proposed catchment areas*”. She said “*some of the catchment areas have been drawn very clumsily without any regard for major roads, topography and local communities.*”

22. In both the document published as part of consultation process and in the consultation report, difficulties were highlighted with the former policy. These included, major roads and rivers cutting across the polygonal areas making travel across them difficult, more children living in the polygon for a given school than there were places for at that school and confusion about which schools were taken into account in deciding the nearest school. In devising new catchment areas these factors and the balance between the number of children living in the catchment area and the size of the school could be taken into account. In my view, these are justifiable reasons for changing the basis on which catchment areas are set and sound factors on which to base new catchment areas. They are also clearly set out in public documents. This does not mean, however, that all of the new catchment areas actually do take these factors into account and I go on to discuss this below.

23. The catchment areas as determined by the Council are published on the Council’s website. However, they are not found under the heading of “*Primary admissions*” where the main document setting out the arrangements for 2020 is found. That document says the catchment areas can be found in “*Annex A*”, that annex lists the various published admission numbers for schools. There is also a hyperlink provided which returns the reader to the opening admissions page which they left two clicks ago. There is no indication that to find the maps it is necessary to select the tab for “*Determined admission arrangements*” where a further click is required on the tab “*2020 Documents*” before finding the maps.

24. Once located, different areas of the city are shown at varying scales on 24 separate maps. Most of the lines used to delineate the catchment areas appear to be the straight lines used to define the former polygonal areas. These lines cut across roads and even through houses and it is possible to identify cul-de-sacs where the end house appears to be

in a different catchment area to the rest of the street. When I raised the question of the clarity of the maps with the Council I was told *"We understand that the map has lines which may not identify individual properties and which priority catchment area they fall within, however the maps do give a very good indication for the vast majority, as they have previously when published as the nearest priority areas. We are publishing a postcode locator tool on our website which will allow families to check their individual address and their priority school and at all times families can contact the local authority to ask for confirmation of their priority school. The timescales for receiving all information from own admitting schools, consultation, determination and publication did not allow this link to be published in our determined arrangements, however the link will be live from the date that the applications can be made and we would look to include this in all supporting communication."*

25. The Code requires, in paragraph 1.47, that admission arrangements must be published once they are determined, this includes any catchment areas. This is so that parents and others can lodge any objection they may have to those arrangements with the Schools Adjudicator before the deadline of 15 May each year as these two objectors have done. I am concerned that there may be parents in Leeds who on the basis of these maps may believe that they are in one catchment area, when they are not and they will not discover this until after it is too late to object. I find that the Council has not met the requirement of paragraph 1.14 of the Code to clearly define the catchment areas or to publish them as required by paragraph 1.47. It is completely unacceptable to publish maps which purport to show catchment areas when in fact they do not. This renders the arrangements unclear and in breach of paragraphs 14 and 1.8 of the Code as well as the specific provisions noted above. Paragraph 14 says that *"Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated."* I do not understand how the Council can think that inaccurate and misleading maps meet this test.

26. Part of the objection was that some areas of the city were not covered by any of the new catchment areas. Under the former arrangements all parts of the city would have fallen into either the polygonal catchment area for a community or voluntary controlled school, or one of the polygons surrounding other types of schools taken into account when constructing the polygonal catchment areas. Less than half of the schools in the city are community or voluntary controlled. If the catchment areas drawn for those schools had covered all of the city, this would have perpetuated one of the issues identified in the consultation report of catchment areas having more children living in them than it was possible to accommodate in the school. Where a school has a catchment area, families living within it will expect, although there can be no guarantee, that they would be likely to be offered a place at the school if they applied for one. This would not be the case if the catchment area was too large. There is no reason or requirement for every address within the city to fall in the catchment area of a community or voluntary controlled school.

27. One aspect of the objections concerned a part of the city not contained within one of the catchment areas, where in the opinion of the objector the only primary school available

was a free school with a Sikh ethos, Khalsa Science Academy (KSA). The Department for Education database 'Get Information About Schools' (GIAS) lists eight other state-funded primary schools within one mile of that school's postcode. Four of these are community schools, one is a voluntary controlled Church of England school, two are Catholic voluntary aided schools and the remaining school is a voluntary aided Jewish school. There are therefore several alternative schools in the area and some have a religious ethos and some do not.

28. The admission authority for KSA and the three voluntary aided schools is each school's governing board or its trust. The three voluntary aided schools and the voluntary controlled school are designated by the Secretary of State as schools with a religious character. This means that they may use faith-based oversubscription criteria, although the Council does not do so for the voluntary controlled school.

29. KSA also does not use faith-based oversubscription criteria. The admission arrangements for KSA in 2019 were based on proximity. This means that it would have been taken into account in drawing the polygonal catchment areas for the neighbouring community and voluntary controlled schools used in previous admission arrangements since September 2013 when KSA opened. This would have left a polygon around the free school in which the houses were closer to it than any of the other schools; children living in this area would not have been given priority for any community or voluntary controlled school under the previous fourth criterion. I have constructed this area on an Ordnance Survey map.

30. From the maps available on the Council's website, it can be seen that there remains an area around the free school which does not fall into one of the new catchment areas for any of the community or voluntary controlled schools. Comparing this area with that based on the nearest school criterion which I constructed shows some changes. The western boundary with the voluntary controlled Allerton Church of England Primary School appears unchanged following the bisector between the schools and cuts across residential streets. The eastern boundary now follows the A61 which is the limit of the new Highfield Primary School catchment area rather than the bisector between the schools. This has the effect of removing some homes from the area without priority under the fourth criterion for a place at a community or voluntary controlled school and including some others. Further south, the A61 becomes the border of the new Moortown Primary School catchment area rather than the bisector between the schools. This has the effect of increasing the number of homes which do not have fourth criterion priority for a community or voluntary controlled school. The consultation report says "*This is to better align the number of children who have priority for Moortown with the number of places available.*"

31. The final parts of the boundary of the area which does not fall into the catchment area of any community or voluntary controlled schools are to the north, which is bordered by a golf course and open country and to the south west where the boundary is with the catchment area for Carr Manor. This boundary appears to be the bisector between Carr Manor and Moortown Primary Schools. I will consider this boundary in more detail below.

32. In previous years there has been an area in the north of Leeds which has not fallen into one of the former polygonal catchment areas for community and voluntary controlled schools in the city and so did not have priority under the fourth criterion for a place at such a school. There will be other such areas of the city where the same is true; these areas will be around academies, foundation or other types of schools for which the Council is not the admission authority, but which were schools taken into account when determining which school was the nearest to a child's address. The introduction of catchment areas for the fourth criterion which reflect factors such as the capacity of the schools and major roads has led to the area in the north of Leeds increasing in size. This area has a school situated within it that has a Sikh ethos, a neighbouring area lies in the catchment area of a school with a designated Church of England character. If the religious ethos of a school is of concern to parents, then there are other schools nearby some with a religious ethos and some without which parents may express a preference for. I do not uphold this part of the objection.

The catchment area for Carr Manor Primary School

33. Both objectors said that the north western boundary of the Carr Manor catchment area was drawn "*without any regard to major roads, topography and local communities.*" They provided a copy of a document from the headteacher of Carr Manor which supported their view that the three roads comprising the Moorland Estate should be included in the catchment area. The school did not, however, take up the invitation to comment on the objection.

34. The Council told me that in previous years children living in this area would have had priority under the fourth oversubscription criterion for Moortown Primary School as it was the nearest school, but it would have been unlikely that they could have been offered a place there. However, the Council said that "*it is evident that applicants from those addresses do have a realistic chance of being offered a place at a number of schools.*"

35. This part of the catchment area boundary appears to me to be formed by the straight line bisector between the school and Moortown Primary school. As such it cuts across roads and does not take into account any of the other factors which the Council said it was going to take into account when drawing up the catchment areas. This is highlighted by the Council's decision to remove adjacent roads from Moortown Primary School's catchment because of some of those other factors.

36. In responding to this objection the Council noted that the school's view on the catchment area had not been received during the consultation period although comments were received from three parents on this issue. The Council said "*Given your comments and questions about the specific priority catchment area for Carr Manor, we would like to take the opportunity to change the priority catchment area for Carr Manor Primary School to include Moorland Grove, Moorland View and Moorland Crescent.*" The objectors have indicated that if this step was taken, they would consider the issue resolved.

37. My power under section 88H of the Act, under which this objection is made, is to “*decide whether, and (if so) to what extent, the objection should be upheld.*” I do not have the power to say how arrangements should be revised if I find they do not conform with requirements, that is a matter for the admission authority.

38. I find that the catchment area for Carr Manor Primary School (to be known as Manor Wood Primary School from September 2019) is not clearly defined because the map published on the website is not at a scale from which it can be discerned which houses fall which side of the boundary. I find that the boundary is not reasonable because the boundary is formed by a straight line midway between the school and another school without taking into account other factors which have been taken into account when setting the catchment areas of other schools, including the neighbouring one. I uphold this part of the objection because this catchment area does not conform with paragraph 1.14 of the Code.

Other Matters

39. Paragraph 2.4 of the Code says “*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They **must not** ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for: a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates); b) the first language of parents or the child; c) details about parents’ or a child’s disabilities, special educational needs or medical conditions; d) parents to agree to support the ethos of the school in a practical way; e) both parents to sign the form, or for the child to complete the form.*”

40. The arrangements include three SIFs. The first is for use when requesting admission for a previously looked after child, the second is for requesting admission under oversubscription criterion 1b (that is a child without an EHCP but who have special needs that can only be met at a specific school), and for requesting admission outside of the normal age group. The first two of these SIFs ask for the child’s names, date of birth, address and telephone. While both the date of birth and address may be needed to confirm the child’s identity, it is not clear to me why it is necessary to know the child’s telephone number to make decisions about oversubscription criteria.

41. Both SIFs then ask for “*Family/Carer’s Details*”. These include the parent or carer’s names and “*Address (if different from above)*” before asking for “*Other person/s with parental responsibility*” and “*Address (if different)*”. It appeared to me that these questions concerned personal details of parents and families prohibited by paragraph 2.4 of the Code.

42. When I raised this matter with the Council it said “*Many parents contact the local authority to discuss the progress of an application – particularly where they have asked for*

additional priority to be awarded to their application. Asking parents to provide this information is to allow the LA to appropriately communicate with the family members who have equal parental responsibility, and to support us in our coordination function. Parents have historically reported frustration that only one parent can complete the application therefore only one parent can communicate with us about that application.” The Council went on to say *“None of the information requested relates to making admissions decisions based on the prohibited information in the code (1.9), and asks only for confirmation of those adults with PR. The Local Authority has been recently challenged by adults with PR who feel that the LA has acted inappropriately by ignoring their right to be involved in the decision making about the child’s school place allocation. We have argued that the decision to ignore this has been made by the other adult with PR, rather than the LA, however asking the applicant to provide details of any other person with PR was included in the SIFs to highlight that all those with PR should be involved in the application, and provides opportunity for the parent to inform us of who else should be included on the child’s record for communication purposes.”*

It is not clear to me why it should be necessary for parents to contact the local authority to discuss the progress of an application between the deadline for applications and the national offer day. Indeed, paragraph 2.10 of the Code says *“Admission authorities must not provide any guarantees to applicants of the outcome of their application prior to the formal notification of any offers of a place in a suitable school by the home local authority.”* Nor does anyone apart from the admission authority and local authority have a *“right to be involved in the decision making about the child’s school place allocation.”* Notwithstanding such points, in my view these questions are prohibited by the Code because they concern personal details about parents and families.

Summary of Findings

43. I find that the consultation undertaken by the Council before determining these arrangements met the requirements of the Code. I find that the Council has not clearly defined the new catchment areas or published them as required by the Code. I do not find it unreasonable for parts of Leeds not be contained within the catchment area for a community or voluntary controlled school. I find that the north eastern boundary of the catchment area for Carr Manor Primary School is not clearly defined nor is it reasonable. I therefore partially uphold the objections.

44. I also find that two of the SIFs in the arrangements ask for personal details of families which is prohibited by the Code.

Determination

45. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2020 determined by Leeds City Council for Carr Manor Primary School and all other community and voluntary controlled primary schools in Leeds.

46. 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.

47. 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: 16 August 2019

Signed:

Schools Adjudicator: Mr Phil Whiffing