



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3585

Objector: A parent

Admission authority: The academy trust for The Tiffin Girls' School,
Kingston upon Thames

Date of decision: 17 September 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 academy trust for The Tiffin Girls' School, Kingston upon Thames.

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 a parent (the objector), about the admission arrangements (the arrangements) for The Tiffin Girls' School (the school), a selective academy school for girls aged 11 – 18 for September 2020. The objection relates to the school's catchment area.
2. The local authority (the LA) for the area in which the school is located is Kingston Council. The LA is a party to this objection. Other parties to the objection are the academy trust for the school and the objector.

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 academy trust (known as the Governing Board), which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 15 May 2019. The objector has asked to have his identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of his name and address to me. 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). The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 15 May 2019 and supporting documents;
- d. the school's response to the objection and supporting documents;
- e. the LA's response to the objection;
- f. maps of the area showing postcode districts, provided by the school and the objector;
- g. the Department for Education (DfE) publication "The Equality Act 2010 and Schools" (the DfE publication); and
- h. a determination of the Schools Adjudicator concerning the school (ADA2312 and ADA2328) that was issued in September 2012.

The Objection

5. The objection concerns the part of the school's catchment area known as "*the Designated Area*." The objector submits that the arrangements are in breach of the Code, as "*the composition of the designated area is unreasonable and not objective*." According to the objector, the school has not followed its own rationale for including postcode districts

within the Designated Area on the basis of the time taken to ‘commute’ to the school by public transport. He identifies some postcode districts, namely SM1-3, that he says are excluded from the Designated Area, despite being more accessible to the school, in terms of travel time, than other districts that have been included.

6. The objector cites paragraph 1.8 of the Code, which states,

*“Oversubscription criteria **must** be reasonable...[and]...objective”*

and paragraph 1.14, which states,

*“Catchment areas **must** be designed so that they are reasonable and clearly defined.”*

7. The objector also believes that the exclusion of postcodes SM1-3 from the Designated Area *“unfairly disadvantages”* children from *“lower social groups”* and particular ethnic groups. He submits that this is contrary to the requirement in paragraph 1.1 of the Code that admission authorities must act in accordance with *“relevant human rights and equalities legislation”* and paragraph 1.8 of the Code, which states,

“Admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.”

He also argues that the arrangements contravene paragraph 1.9 f), which prohibits admission authorities from giving priority to children according to the financial status of parents applying.

Other Matters

8. It appeared to me that arrangements did not comply with paragraph 1.20, which, in a section of the Code concerning Grammar schools, reads,

*“Where admission arrangements are not based solely on highest scores in a selection test, the admission authority **must** give priority in its oversubscription criteria to all looked after children and previously looked after children who meet the pre-set standards of the ability test.”*

9. I was also concerned that “Stage Two” of the selection test takes place on 9 November 2019. Paragraph 1.32 c) of the Code states,

*“Admission authorities **must** take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on **31 October** so as to allow parents time to make an informed choice of school.”*

Background

10. The Published Admission Number (PAN) determined for admission at year 7 (Y7) for September 2020 is 180. The test for selection is in two stages. The first stage, described by

the school as “a sifting exercise”, tests verbal and non-verbal reasoning. For admission in September 2019, 1,420 girls sat this test; 491 scored sufficiently highly to be invited to take the second stage of the test. Parents are informed of the outcome of the first stage of testing before 31 October. The second stage of testing comprises written papers in Maths and English, from which a rank order of the scores obtained by girls taking the test is compiled. The local authority reports that parents of 565 girls expressed a preference for the school for admission in September 2019, including 375 for whom it was their first preference.

11. The oversubscription criteria for admission to Y7 at the school in September 2020 can be summarised as follows:
 1. Up to 60 girls whose mark in the second stage of testing is higher than or equal to the mark of the 350th ranked applicant in the following order of priority:
 - a) Looked after and previously looked after girls who live in the Inner Area or the Designated Area.
 - b) Girls who qualify for Pupil Premium Funding who live in the Inner Area or the Designated Area.
 - c) Girls who live in the Inner Area.
 2. The remaining places will be allocated to:
 - a) Girls who live in the Designated Area.
 - b) Girls who live outside the Designated Area.

Within each category, priority for places is determined by the mark achieved in the second stage of testing. Distance from the school is used to resolve a tie for the final place. In ‘advice’ to parents within the arrangements, it is explained that the school anticipates that all places will be allocated to girls who live in the Designated Area, as has been the case each year since it was introduced.

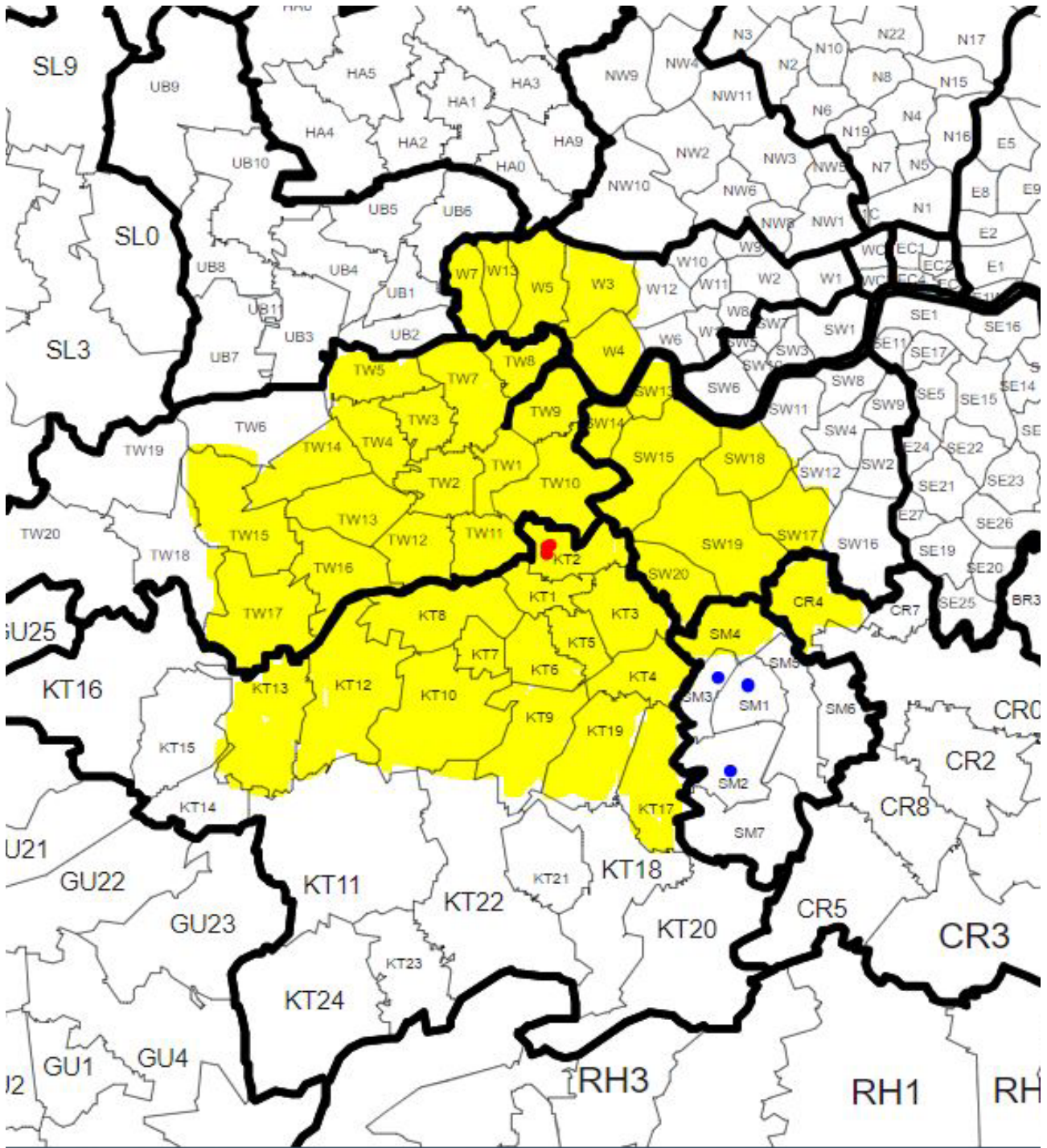
12. The Inner Area is defined by a list of named wards (all of which fall within the larger Designated Area as I explain below). The school explains that this area was introduced into the admission arrangements in 2016 as it,

“...set out to improve the chances of admission for more girls who would benefit from an academically selective education and who are from a disadvantaged background and/or live in the surrounding area.”

The boundary was drawn, “to ensure inclusion in the Inner Area of the areas of highest child poverty which are nearest the School.” The Designated Area, which encompasses the Inner Area and a much more extensive area beyond it, was first established in 2014. Map One shows the postcode districts that are included within it. For admission in 2019, the UB1

and UB2 districts were removed from the Designated Area. For admission in September 2020, TW18 has also been removed.

Map One: Designated Area showing postcode districts included shaded in yellow.



Key. Red dot – location of school. Blue dots – postcode districts that the objector believes are unfairly excluded from the Designated Area.

Consideration of Case

Is the composition of the Designated Area reasonable and objective?

13. There are two strands to the objection, which are connected. I consider first the objector’s argument that the school has not consistently applied its rationale for selecting the postcode districts that are included in the Designated Area. In consultation material explaining its reason for proposing to remove postcode TW18 from the Designated Area for admission in September 2020, the school refers to the travel time of more than an hour by public transport that girls from this district need to take to get to school. It says,

“If a girl has an excessively long journey at each end of the day it can cause tiredness during the school day and affect her ability to maintain her friendships and pursuits outside school.”

14. The objector concludes from this explanation that the distance and journey time from the school has determined which postcode districts it has included in the Designated Area. He produces evidence that he believes shows that, in terms of distance from the school, driving time and public transport commuting time, the school is more accessible to postcode districts SM1-3 than other postcode districts that continue to be included in the Designated Area. I have extracted some of the data provided by the objector to include in Table One below. The table shows the figures provided by the objector for SM1-3 and three of the postcode districts that are included in the Designated Area. It should be noted that the table is intended to illustrate the objector’s argument and does not include all of the information about times and distances that he provides.

Table One: Times and distances provided by the objector

Postcode district	Distance from school (straight line)	Driving time to school	Public transport commute time to school
SM1	9.25 km	40 minutes	50 minutes
SM2	9.96 km	36 minutes	1 hour 1 minute
SM3	7.78 km	25 minutes	1 hour 10 minutes
W7	11.45 km	49 minutes	1 hour 27 minutes
W13	11.68 km	44 minutes	1 hour 17 minutes
KT17	12.56 km	40 minutes	2 hours

14. The objector acknowledges that it is necessary to specify an address within each postcode area in order to generate the distances and times from Google Maps and, in the case of the commuting times, the Transport for London (TfL) journey planner. Nevertheless, he submits that the figures show that,

“...it cannot be reasonable that SM1, 2, 3 postal districts which are closer to the school and have much shorter commute times are excluded from the school’s designated area and given lower admissions priority which makes it impossible for

resident children to gain admission into the school whilst postal districts that are further out from the school and have longer commute times are within the designated area for admissions.”

Paragraph 1.14 requires the design of catchment areas to be reasonable. The objector concludes this section of the objection by saying,

“This shows that the home to school commute time ‘rule’ to decide postal districts in the designated area was not applied in an objective manner.”

Paragraph 1.8 stipulates that oversubscription criteria **must** be objective.

15. In response, both the school and the LA set out the basis on which the Designated Area was designed. The school provided me with the material it produced in 2012 when the admission authority first consulted on the proposal to introduce a Designated Area. This states,

“We identified the area where the vast majority of the students across year groups in the school live. All postcodes within that area were included. We also analysed the average travel times of students who are travelling the furthest distances. For postcodes which overlapped the edge of the area we considered a combination of both the number of students currently in the school who live in that postcode and the travelling time to school from that postcode area.”

In their responses to me, the LA and the school both mention that there are two girls’ grammar schools in the London Borough of Sutton. The school says that these schools include the SM1-3 postcode districts in their catchment areas and that it,

“...considered that these grammar schools for girls are better placed geographically than The Tiffin Girls’ School to provide a state school grammar education for Sutton residents.”

I cannot find any direct reference in the consultation material issued by the school in 2012 indicating that it took the location of these neighbouring grammar schools into account.

16. The school provides its own analysis of travel times from some of the postcodes identified by the objector, stating that it has also used the TfL journey planner. For example, from railway stations in KT17 to the school, it says that journey times range from 50 minutes to 1 hour 10 minutes, significantly lower than the 2 hours quoted by the objector. The school also says that driving times to school were not taken into account, as parents are “*actively discouraged*” from driving their daughters to school, in order to promote “*independent travel*” and to reduce congestion and pollution.

17. In his comments on the school’s response, the objector argues that the travel times provided by the school are based on a flawed methodology, as they calculate the length of a journey from a railway station rather than a home address, which may be some distance away. He also takes issue with the exclusion of driving times from the school’s considerations. Some children, he says, may have particular needs that make using public

transport difficult. Train travel, in particular, can be expensive and driving to school may reduce journey times.

18. Furthermore, the objector says that it is unreasonable for the school to base its catchment area on the home addresses of pupils attending in 2012. Demographic factors may have altered the profile of districts that were excluded. This approach, he contends,

“...serves to lock out specific post codes from ever gaining access to the school.”

The objector says he is aware that children from postcodes SM1-3 did attend the school before the introduction of the Designated Area.

19. Having taken these considerations into account, the objector draws the following conclusion:

“It is now clear that the SM1-3, 6-7 postcodes were deliberately excluded from the designated area because they are in Sutton borough and/or in the catchment area of other Sutton borough grammar schools.”

He explains that one of the girls' grammar schools in Sutton, Nonsuch High School, which is located in SM3, uses a catchment circle 5.25 km in radius that encompasses all or parts of KT17, KT4, SM4 and CR4, all of which are part of the Designated Area. The same is true of Wallington High School, located in SM6, whose catchment circle has a radius of 6.7 km. The objector also points out that around half of the places at both of these schools are allocated to those who score highest in the selection test, irrespective of their home address. He summarises his view as follows:

“London borough of Sutton residents do not have exclusive use of the girls' grammar schools in the borough. These schools rightly open their admission to students of selective ability from far and near including the London borough of Kingston residents. It is therefore unreasonable and unfair that the London borough of Kingston and the school will deliberately craft admission policies designed to prevent SM1-3 residents from the school despite their close proximity and ease of public transport.”

20. At various points in his submissions, the objector argues that the arrangements do not meet the requirement of objectivity in paragraph 1.8 of the Code. He says that the process the school used to decide the extent of the Designated Area was not carried out objectively and that *“subjective criteria were used to exclude SM1-3 children from the school.”* Paragraph 1.8 stipulates that oversubscription criteria must be objective. The use of a catchment area is an acceptable oversubscription criterion. The school's Designated Area has a clear boundary, defined by postcode districts, as shown on the map above. No-one can be in any doubt as to its extent. It is therefore an objective oversubscription criterion and does not breach that part of paragraph 1.8. However, there is a further requirement in paragraph 1.8 relating to oversubscription criteria in general and in paragraph 1.14 specifically in respect of catchment areas; that is that they must be *“reasonable.”* Put simply, for a catchment area to be considered reasonable there needs to

be a reason for it and that reason needs to be evident in the design of the area. If, as the objector argues, the admission authority has provided reasons for its catchment area, but has clearly failed to apply them consistently, there may be grounds for finding that the Code's requirements relating to reasonableness have not been met. Finally, I note that the objector describes, on more than one occasion, the arrangements as "*unfair*." Although he does not make reference to it, I must take into account 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 clear, fair and objective."

21. The objector has gone to great trouble to demonstrate his belief that the school has been inconsistent in its approach to determining the extent of the Designated Area by reference to journey times to school. The information he has provided does not match that provided by the school, possibly due to a difference in the method of calculating the travel times. In my view, the objector is probably right that there are some postcode districts in the Designated Area where the average journey time to school is longer than it would be from SM1-3. However, the school makes clear that journey times were not the only criterion it used when deciding upon the extent of the Designated Area; it also took into account the numbers of students living in the area. In a way that was not described in detail, the 2012 consultation material says that a "*combination*" of those two factors was considered when the decision was made. It was never suggested that a single test of journey time would define the Designated Area.

22. I asked the school to provide me with details of the student population in 2012, showing the numbers living in each postcode district. This information shows, as would be expected, that the greatest concentration of students on the roll of the school lived in the postcode districts closest to it. For example, 125 students lived in KT3 and over 100 lived in KT2. Around the edge of what is now the Designated Area, the numbers of students residing in each postcode district were much smaller. The table below lists those postcode districts on the outer edge of the Designated Area where the numbers on roll at the school in 2012 were five or fewer, as well as postcode districts not included in the Designated Area where at least five students on roll lived.

Table Two: Number of students on roll at the school in 2012 in certain postcode districts

Postcode district	Number on roll in 2012	Included in Designated Area?
KT17	1	Yes
KT19	4	Yes
SM1	5	No
SM2	6	No
SM3	5	No
SW11	5	No
SW13	1	Yes
SW18	4	Yes
TW15	3	Yes

Postcode district	Number on roll in 2012	Included in Designated Area?
TW17	0	Yes
UB6	6	No
W3	5	Yes
W7	2	Yes
W13	3	Yes

23. I draw the following conclusions from the information in this table:

- the numbers of students attending the school who lived in postcode districts SM1-3 in 2012 were small – fewer than one student per year group in each case;
- there were other postcode districts with similar numbers of students attending the school in 2012 that were not included in the Designated Area (SW11, UB6); and
- several postcode districts that were included in the Designated Area had fewer students attending the school in 2012 than SM1-3, including some that the objector believes involve longer journey times to the school (KT17, W7 and W13 are examples).

24. The figures in Tables One and Two do suggest to me, both in respect of journey times and the numbers of students on the roll of the school in 2012, that there was a case, although not an entirely decisive one, for including SM1-3 in the Designated Area. However, the school has said that there is an additional reason why these districts were excluded, that is, the existence of two girls' grammar schools in Sutton that include SM1-3 in their catchment areas. This appears to me to be a valid factor to take into account. By my calculations, from most of the SM1-3 area it is less than 2 miles (3.2 km) to both Nonsuch and Wallington High Schools. This is about one-third of the distance to The Tiffin Girls' School (see Table One).

25. I consider it unfortunate that this reason, that is, the location of the girls' grammar schools in Sutton, does not appear to have been made clear to parents in 2012 at the time of the consultation. However, it is not my responsibility to review a decision that was made by the admission authority seven years ago. My jurisdiction relates to the arrangements that have been determined for admission in September 2020. In my view, the combination of relatively long travel times to school, relatively small numbers attending the school historically, and alternative single-sex selective schools that are much closer, provides a reason why SM1-3 are not included in the Designated Area. I do not accept the objector's argument that the school provided reasons for its catchment area that it has not applied appropriately in the case of SM1-3. The objector also does not agree that it was journey times by public transport, rather than driving times, that were taken into account, but it is for the admission authority to decide the basis on which its catchment area is designed. Provided the reasons are not irrational and have been applied in a broadly consistent way, the requirements of reasonableness in paragraphs 1.8 and 1.14 of the Code are met. Although it is possible to query the grounds on which a handful of the total of the 41

postcode districts have been included in the Designated Area, I do not consider this is sufficient to conclude that the school's catchment is unreasonable. Indeed, the fact that the admission authority has, over the past two years, removed three postcode districts from the Designated Area indicates that its appropriateness is regularly reviewed. I do not uphold this aspect of the objection.

25. I now consider the objector's opinion that the arrangements are "*unfair*" as they are "*deliberately ...designed to prevent SM1-3 residents*" from obtaining a place at the school. It is, of course, an inevitable consequence of catchment areas that children living outside their boundaries have a lower priority for a place. In the case of grammar schools, which often have large catchment areas and use performance in selection tests to prioritise children living within the catchment area, it may be the case that children living outside the catchment area have no realistic prospect of being allocated a place. This is not of itself unfair. Indeed, girls living in SM1-3 and 6-7 have, if they score sufficiently highly in the selection test, the opportunity to obtain a place at a girls' grammar school closer to their home. The objector argues that it is unfair that residents in the borough of Kingston have access to the borough of Sutton's grammar schools, but this is not reciprocated by The Tiffin Girls' School. Actually, this is not entirely accurate as it is only some parts of the borough of Kingston that fall within the priority circles of the Sutton schools, whilst some parts of SM4 and CR4, which are in The Tiffin Girls' School's Designated Area, are in the borough of Sutton.

26. The Code does not define fairness, but I consider that it would be unfair if the effect of the school's arrangements were to deny a group of children access to a suitable school within a reasonable distance of their homes. This is not the case for girls living in SM1-3. Two girls' grammar schools are located closer than The Tiffin Girls' School and they will fall into the priority circles of one or both of them. Therefore, I do not regard the arrangements as being unfair in their effect.

Does the composition of the designated area unfairly disadvantage children from particular social and racial groups?

27. I turn now to the second strand of the objection. The objector argues that the arrangements, by their exclusion of postcode areas in the London Borough of Sutton, "*unfairly disadvantages children from lower social groups,*" in breach of paragraph 1.8 of the Code. He provides data, published by HMRC, that show that the average taxpayer income in Sutton is lower than almost all of the parts of the Designated Area that he believes have longer journey times to the school. He says that this shows that the arrangements give "*priority to children according to the financial status of parents applying,*" which contravenes paragraph 1.9 f) of the Code.

28. In a similar way, the objector also provides data from the Office of National Statistics that show that,

"...there are higher percentages of people of Black race living in SM1 (4.8%), SM2 (4.1%) and SM3 (2.6%) than in many of the comparison postcodes- TW17 (0.5%), KT13 (0.7%), KT17 (1.1%), TW16 (1.8%), KT19 (2.0%)."

He says that excluding SM1-3 from the Designated Area thus “*unfairly disadvantages children from particular ethnic groups*”, again contrary to paragraph 1.8. The objector also cites paragraph 1.1 of the Code, which requires admission authorities to act in accordance with relevant human rights and equalities legislation. He concludes this part of the objection by saying,

“It does not matter whether this was done deliberately or inadvertently, the Code says it must not.”

29. I begin my consideration of this part of the objection by looking at the equalities legislation. The objector does not cite a particular piece of legislation but the relevant statute is the Equality Act 2010, which consolidated the law prohibiting discrimination on the grounds of any of a list of protected characteristics, including race. It is not the case, of course, that the arrangements directly discriminate on the grounds of race; they make no reference to race whatsoever. However, the Equality Act, in section 19, also deals with indirect discrimination. As summarised in the DfE publication, this occurs when

“...a ‘provision, criterion or practice’ is applied generally but has the effect of putting people with a particular characteristic at a disadvantage when compared to people without that characteristic.”

The Designated Area of the school is an element of its oversubscription criteria that is applied generally to all who seek a place at the school. The question I must therefore consider is whether it puts people with a particular characteristic (being of black British, black Caribbean or black African heritage in this case) at a disadvantage when compared to people without that characteristic (being of a different race in this case).

30. Having provided the data that show that there are more people of black race living in SM1-3 (an average of around four per cent), compared with some of the postcode districts included within the Designated Area (where the average is around one per cent), the objector concludes,

“These children from SM1-3 ‘blacker’ postcodes cannot get admission to the school despite the fact that those TW16-17; KT13,17,19 ‘less black’ postcodes live farther and can gain admission.”

In response, the school submitted its Inspection Data Summary Report, produced by OfSTED. This demonstrates, it says, that the school has a “*very diverse and inclusive school population*”, with 41 per cent of students speaking English as an additional language, a proportion that is in the highest 20 per cent of all schools in the country.

31. The objector does not believe that the OfSTED Data Summary is “*sufficiently granular to prove that some racial groups have not been disadvantaged by the designated area composition.*” Nevertheless, the statistics do show that pupils from black ethnic groups are less well represented in some of the postcode districts within the Designated Area than they are in SM1-3. The design of the Designated Area does not put black people generally at a disadvantage but it does put all people living in these parts of Sutton at a disadvantage,

and in these parts of Sutton there happens to be a higher proportion of black people. There is a further dimension to considering whether there is indirect discrimination, however, and this too is addressed in the DfE publication as follows:

“It is a defence against a claim of indirect discrimination if it can be shown to be ‘a proportionate means of achieving a legitimate aim’. This means both that the reason for the rule or practice is legitimate, and that it could not reasonably be achieved in a different way which did not discriminate.”

32. The school’s aim in defining the boundaries of the Designated Area was that it should take into account the home addresses of children who have historically attended, the journey times from home to school and the location of other single-sex selective schools. As I have found these grounds for determining the extent of the Designated Area to be reasonable and to have been applied in a broadly consistent way, I consider that this defence applies in this case. I do not find that the arrangements unlawfully discriminate on the grounds of race.

33. I turn now to the objector’s arguments about unfair treatment on the basis of socio-economic status and family income. An individual’s or family’s socio-economic status or income is not a protected characteristic under the Equality Act so that legislation is not relevant here. What is relevant is paragraph 1.8 of Code. In response to the objector’s argument that the arrangements unfairly disadvantage pupils from the lower social groups, as prohibited by paragraph 1.8, the school says that when the Inner Area was introduced, information from HMRC was used to identify areas of child poverty. The extent of the Designated Area was determined by the factors discussed above and *“no area was either excluded or included because of actual or perceived socio-economic factors.”* The objector accepts in this respect, as he does in relation to what he considers the unfair disadvantage to a certain racial group, that the school has not acted deliberately to cause disadvantage. However, he says that the inadvertent effect of the arrangements is to do so and that is contrary to the Code.

34. I consider that the key word in this part of paragraph 1.8 is *“unfairly.”* Any catchment area (or indeed any other oversubscription criteria) will inevitably advantage some potential applicants to a school and prove disadvantageous to others – that is their purpose. Such disadvantage must not just exist, but must be unfair in its effect on certain groups if it is to be found to breach the Code. In fact, I have found that the composition of the Designated Area is not unfair in its effect, as suitable alternative schools are available to residents of SM1-3. It may be that some girls will not be able to secure a place at a grammar school as easily but there is no right to attend a particular type of school and in large parts of the country, there are no grammar schools at all that pupils can access.

35. Similarly, the arrangements do not give priority according to the *“financial status of parents applying”*, which is prohibited by paragraph 1.9 f) of the Code, other than by giving priority to girls who are eligible for pupil premium funding. Paragraph 1.9 f) specifies this as an exception to the prohibition. Apart from this, priority is based on geographical considerations, not financial. I have come to the view that the school has provided an

explanation of the composition of the Designated Area that meets the Code's requirements of reasonableness and fairness. I am satisfied that financial considerations did not form any part of its decision as to the area's extent. Again, the Code has not been breached. I do not uphold any part of the second strand of the objection.

Other matters

36. The school accepts that the arrangements do not comply with paragraph 1.20 of the Code. Priority for places is not based solely on the rank order of scores in the selection test. The oversubscription criteria also give priority to girls who qualify for pupil premium funding and to those who live in specific geographic areas. Therefore, the Code requires that the admission authority **must** give priority "*to all looked after children and previously looked after children who meet the pre-set standards of the ability test.*" This standard is set as the mark achieved by the 350th highest ranked applicant in the second stage of the testing. All looked after children and previously looked after children who achieve this standard must have the highest priority, irrespective of where they live.

37. With respect to the timing of the second stage of the selection test, the school explained that the logistics of arranging and marking the second test make it extremely difficult for the process to be completed before 31 October. The tests involve written responses, which are extensive in the two English papers, rather than multiple-choice answers. The school describes the marking procedure as "*rigorous*" and "*robust*" and it is moderated by the English department. Carefully constructing seating plans for the tests and making special arrangements for girls with additional needs also represent a "*significant time requirement.*" The school says,

"It would put an immense strain on school staff to deal with these demands during the first part of the autumn term (i.e. prior to mid-October) when their priority is settling in students who are new to the School and students who are now in examination classes."

38. The school does inform parents of the outcome of the first stage of the selection test before 31 October. The letter that is sent to parents of girls who were unsuccessful at this stage makes clear that they should not make the school a preference on the Common Application Form (CAF). Parents of girls invited to the second stage of testing are advised in their letter to place the school first on the CAF if that is their preference. The letter explains that,

"being invited to the Stage Two Test does not guarantee you will be offered a place at The Tiffin Girls' School. The offer of places will be determined by the mark of the Stage Two Test and the order in which girls are ranked after completing our admissions process. We fully expect the number of girls to be greater than the number of places available."

My concern was that parents are not able to be told their daughter's ranked position in the second test. With nearly 500 girls taking the test and only 180 places available, this would

appear to me to be significant information for parents in making “*an informed choice of school.*”

39. In fact, an adjudicator considered this issue in 2012 in a determination relating to the school (ADA2312). The arrangements for testing were then a little different, as the marks achieved in the first stage of testing were combined with the marks in the second stage to produce an overall score. Parents of girls invited to the second stage of testing were informed of their scores in the first stage. This is no longer the case, as the scores in the first stage no longer contribute at all to the ranking after the second stage of testing.

40. In ADA2312 the adjudicator noted that paragraph 1.32 c) of the Code does not define the “*outcome*” of the tests, nor what constitutes an “*informed choice.*” I would add that neither are the “*reasonable steps*” defined that a school must take to inform parents of test outcomes. The adjudicator took the view that the Code therefore “*leaves the decision of how far to go in informing parents to admission authorities.*” In respect of the majority of girls, that is, those not invited to the second stage of testing, parents receive the precise information they require to make informed choices. For those who are invited to the second stage, the adjudicator concluded,

“For the minority who “pass” the test, parents will know the school’s remaining procedures ... and will be aware from the relationship between the number of successful candidates and the number of places what the minimum chances of their application being successful are.”

41. I am not bound to come to the same conclusion as the adjudicator in ADA2312, as the arrangements for testing have changed. It appears to me that parents of girls invited to the second stage of testing will have less information than was the case in 2012. They are not told their daughter’s score in the first stage of testing, as it is irrelevant to the final result. Furthermore, the letter inviting girls to the second stage of testing does not say how many have been invited in total. However, I recognise that whilst knowing their daughter’s position in the rankings in the second stage of the test before completing a CAF can be useful for some parents, as the adjudicator pointed out in ADA2312 it may be not be entirely helpful in every case. In London, parents can express up to six preferences. In an area where there are several grammar schools, girls may be highly ranked for more than one. The adjudicator said the effect of this could be that,

“...the coordination process may well result in actual offers of places at a particular school in a given year being made to other candidates who might easily have been discouraged from naming it because of a perception that their chance of gaining admission was low on the basis of their apparent standing at the end of October.”

42. Taking all of these factors into consideration, I have formed the view that, on balance, the arrangements do not fall short of the requirements of paragraph 1.32 c) of the Code.

Summary of Findings

43. In setting the extent of the Designated Area, the school took into account journey times to school, the number of pupils from each postcode district attending the school and, in the case of SM1-3, the fact that there are two girls' grammar schools located closer. To have used a combination of these factors is, in my view, reasonable. The composition of the Designated Area is not unfair in its effect as there are alternative schools (including schools of the same type) within a reasonable distance of these areas.

44. Although there are variances in the average incomes of taxpayers and the percentages of people of different racial groups between SM1-3 and other districts included within the Designated Area, the admission arrangements do not unfairly disadvantage any particular social or racial group.

45. The arrangements are in breach of the Code as all looked after and previously looked after children are not given the highest priority for places.

Determination

46. 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 academy trust for The Tiffin Girls' School, Kingston upon Thames.

47. 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.

48. 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: 17 September 2019

Signed:

Schools Adjudicator: Peter Goringe