



Office of  
the Schools  
Adjudicator

## Determination

<b>Case reference:</b>	<b>ADA3640 Shoreham Academy, Shoreham by Sea, West Sussex</b>
<b>Objector:</b>	<b>A parent</b>
<b>Admission authority:</b>	<b>The local governing board of Shoreham Academy acting on behalf of the United Learning Trust (multi academy trust)</b>
<b>Date of decision:</b>	<b>4 May 2020</b>

## 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 2021 determined by the local governing board for Shoreham Academy acting on behalf of the United Learning Trust, West Sussex.

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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 30 June 2020.

## 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 Shoreham Academy (the school), an 11 to 18 academy school for September 2021. The objection is to the way in which distance is

measured from an applicant's home to the school when applying the over subscription criteria.

2. The local authority for the area in which the school is located is West Sussex County Council. The local authority is a party to this objection. Other parties to the objection are the objector, the school and the United Learning Trust (the multi academy trust for the school).

## **Jurisdiction**

3. The terms of the Academy agreement between the multi-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 her objection to these determined arrangements on 21 February 2020. The objector has asked to have her 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 her 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).

5. 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 21 February 2020;
- d. the school's response to the objection and supporting documents;
- e. the local authority's response to the objection and supporting documents;
- f. the local authority's composite prospectus for admissions to secondary schools; and
- g. maps of the area identifying relevant schools.

## The Objection

6. The objector maintains that the use of the 'as the crow flies' measurement of distance from an applicant's home address to the school is unfair when implementing the school's oversubscription criteria. She says that it would be fairer to have a 'safe walking distance' measurement. She makes this objection because of the unusual geographical features of the area. She suggests that some applicants who live in the catchment area are unfairly disadvantaged by the measurement method and that a fairer system would also have a positive environmental impact.

## Other Matters

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

- The publication of the admission arrangements for September 2021 (paragraph 15 of the Code)
- Published admission number (PAN) applies only to the relevant age group (paragraph 1.2 of the Code)
- The definition and placement within the oversubscription criteria of SEN and EHCPs (paragraph 1.6 of the Code)
- Definition of looked after child (paragraph 1.7 of the Code)
- Map of the catchment area (paragraph 14 of the Code)
- Date of the waiting list (paragraph 2.14 of the Code).

8. All parties were made aware of the concerns above. The school responded with an amended set of admission arrangements but the amended arrangements do not conform to the Code as outlined below.

## Background

9. The school is an 11 to 18 comprehensive academy school. It has a published admission number of 300 for places in year 7 (Y7) in September 2021. The school is oversubscribed. In summary, after children with Education Health Care Plans (EHCPs) which name the school, the oversubscription criteria are as follows;

- 1) Looked after and previously looked after children
- 2) Children with specific medical, social or special needs without an EHCP
- 3) Children who live in the catchment area of the school who are siblings of students in the school

- 4) Children who live in the catchment area of the school
- 5) Children who live outside the catchment area of the school who are siblings of students in the school
- 6) Other children who live outside the catchment area

The arrangements go on to say that *“the catchment area is defined by the area delineated on the map appended to this document”* and *“in the case of oversubscription priority is given to applications who live nearest the academy measured by a straight line from the academy to the child’s home address using ordnance survey data within the curtilage of the property.”*

## Consideration of Case

10. The objector considers the use of ‘straight line-distance’ from home to school to be unfair to children who live in a particular part of the school’s catchment area. She suggests that a fairer method would be ‘safe walking distance’. The objector uses the term ‘as the crow flies’ rather than ‘straight line distance’. These are synonymous terms. She makes the point that not only would her methodology be fairer for children who live within some areas of the school’s catchment area but it would also be safer and more environmentally friendly as more children would be able to walk to school. It is interesting to note that on the school’s website, in the introductory paragraph to the admission section it states that *“Our current pupil admission numbers (PAN) for Year 7 is 300 students per year. We realise that demand for places at Shoreham Academy is high and we want to respond to local need, recognising our belief that the best school a student can attend is the one they can walk to.”*

11. In the last three years all the places for the school have been taken up with children who are in categories one to four of the oversubscription criteria. The numbers of unsuccessful applicants living within the catchment area (without siblings; that is category four) were five in September 2018, 35 in September 2019 and 26 for September 2020. I can understand the disappointment of parents who live within a popular school’s catchment area and yet are unsuccessful in their applications for their children to attend their preferred local school. This situation occurs in the admissions for many popular schools where the parent finds that distance measurements preclude their child’s admission to a school even though they live within the school’s catchment area.

12. In this case the objector suggests that it is particularly unfair to children living in an area of the catchment area which she describes as Shoreham Town. A study of the map of the Shoreham by Sea area shows the issue clearly. The River Adur flows due south to the west of the town and into the sea. Approximately one and a half kilometres before the mouth of the river it bends at a ninety-degree angle forming an isthmus of land approximately half a kilometre wide between the river and the sea before it turns again to the open sea. This isthmus is known locally as and described by the objector as ‘Shoreham Beach’. Houses in this area are approximately one to one and a half kilometres from the school in a straight-line distance but the river flows in between this area and the school. In

order to travel to the school from this area the students have to travel west (away from the school) in order to access a river bridge which then leads them to the school. The objector suggests that the actual distance the students have to travel is further than she lives from the school. The objector lives in Shoreham Town which has direct road access to the school at a distance of approximately two kilometres. It is not disputed that many homes in Shoreham Beach will be nearer to the school (via the straight-line measurement) than many homes in the Shoreham Town area.

13. Looking in more detail at the most recent admissions (for September 2020) the data from the local authority shows that the last successful applicant in category four (non-sibling in catchment area) lived 1907.5 metres from the school. Of the unsuccessful applicants to the school in the last three years six students have been allocated places to one of two schools which are approximately six miles from the school and three students went to a Catholic secondary school which is approximately four miles from the school. Of the remaining unsuccessful applicants two were admitted to Portslade Aldridge Community Academy (PACA) (a distance of 1.1 miles from the school) and the others were admitted to The Sir Robert Woodward Academy (SRWA) – a distance of 3.8 miles from the school.

14. It should be noted here that SRWA is within the same local authority as the school and PACA is in the neighbouring local authority of Brighton and Hove. There have been sufficient places available at SRWA to accommodate unsuccessful applications for places at Shoreham Academy over the past three years. In addition, a number of these applicants were successful in securing a place at PACA. A study of the Brighton and Hove website shows that in September 2019 (the last published figures) 46 students were admitted to PACA from out of that school's catchment area. This number will include some students from the Shoreham area.

15. The objector suggests that safe walking distance as a measurement of priority would provide a more sensible environmental alternative as well as being fairer to children living in the Shoreham Town area. The Code does not make any explicit provisions about this. Paragraph 1.13 of the Code covers the distance from the school measurement. It states that *"Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the 'home' address will be determined and the point in the school from which all distances are measured."* The school's admission arrangements state that *"A child's permanent address is where he or she normally lives and sleeps and goes to school from."* *"In the case of oversubscription .... priority is given to applicants who live nearest the academy measured by a straight line from the academy to the child's home address using Ordnance Survey data within the curtilage of the property"*.

16. In his response to the objection the principal of the school wrote that the straight-line measurement as explained in the admission arrangements is the most straightforward method of measurement minimising the risk of disagreement and misinterpretation. He states that the use of a safe walking distance may be useful to determine eligibility of assistance with transport arrangements but *"it is entirely subjective and cannot, therefore be an effective, clear or fair tie-breaker"*. He explains that the school has always followed this methodology as it is in line with the local authority admissions protocols. The school has a

service level agreement with the local authority to administer school admissions at Y7. The local authority confirms that the straight-line distance is one which is used in the service level agreement and all distances are provided by the local authority to the school.

17. I understand the position of the objector as it is true that some children who live nearer to the school by straight-line distance have to travel further to reach school than would some others who live further away by straight line distance. If, as the objector suggests, safe walking distance was used instead of straight-line distance this would mean that a different group of children would not be successful in their applications to the school. These children would then have to be accommodated at other schools in the same way that many are in the current system. Whenever a school is oversubscribed there are going to be disappointed applicants. The tie breaker in the current arrangements is one which has been used by the school, the local authority and other schools in the area for some time and I am of the view that the tie breaker is in line with the Code as it is effective, clear and fair. I am satisfied that any unsuccessful applicants who live within the catchment area can be accommodated at a local school which is within reasonable distance of their homes. As the tie breaker in the admission arrangements complies with the Code I am not in a position to comment on the environmental impact of any change. It is a matter for the admission authority, in this case, the local governing board of the school, to consider any changes to the arrangements in line with the Code.

18. I therefore do not uphold this objection.

## Other Matters

19. Having considered the arrangements as a whole it would appear to me that the following matters do not, or may not, conform with requirements. All parties were made aware of the concerns. The school responded with an amended set of admission arrangements but the amended arrangements do not conform to the Code as outlined below. The determined arrangements do not appear on the school's website under 'admissions' which is confusing. They appear instead under the heading 'policies.'

### **The publication of the admission arrangements for September 2021 (paragraph 15 of the Code).**

20. In the letter from the school dated 12 March 2020 it stated that the 2019 admission arrangements were approved by the governing board on the 14 March 2019 and that the 2020 arrangements were approved at a governing board meeting on 29 April 2020. The letter explained that the admission numbers in the 2019 policy were incorrect and that the arrangements for admission in 2021 would be reviewed in the autumn of this year. These dates are clearly incorrect. The 2020 arrangements should have been determined in early 2019 and the 2021 arrangements in early 2020. I assume that these dates were given in error and that the 2021 arrangements, which are the subject of this objection, were determined at the meeting in April. The arrangements on the school's website at the time of the objection stated "updated 2019, next review March 2020". The amended arrangements now state "for 2021 admission" which is compliant with the Code.

**Published admission number (PAN) applies to only the relevant age group (paragraph 1.2 of the Code).**

21. At the time of the objection the arrangements stated that *“Shoreham Academy has the following published admission numbers for the year 2018/2019; 300 for pupils in years 7 to 11. Shoreham Academy has capacity for 300 pupils in the sixth form with 180 places in year 12.”*

22. Paragraph 1.2 of the Code states that “As part of determining their admission arrangements, all admission authorities **must** set an admission number for each ‘relevant age group’”. This relevant age group is defined in the Code as “the age group at which pupils are or will normally be admitted to the school”. In this case the relevant age groups are Y7 and Y12.

23. The amended arrangements now state that the PAN for Y7 is 300 and for Y12 is 180. These numbers indicate the number of external applicants who will be admitted to the year groups. This is now compliant for Y7 only. Later in the arrangements, under the heading Post 16 admission criteria, it states that *“The academy will not admit external applicants unless it is undersubscribed by pupils progressing from its own year 11.”* If no external candidates are admitted this would be a PAN of 0 as pupils progressing from year 11 into year 12 are not being admitted to the school for the first time. The PAN for the sixth form requires amendment to indicate the minimum number of pupils who will be admitted from other schools.

**The definition and placement within the oversubscription criteria of SEN and EHCPs (paragraph 1.6 of the Code)**

24. In the original and amended arrangements children with statements of Special Educational Needs where the school is named in the statement were admitted before the oversubscription criteria were applied and this was compliant with the Code. However, children now have Education Health Care Plans and not SEN statements and this should be reflected in the arrangements.

25. In the original arrangements children with EHCP were prioritised in the oversubscription criteria at number 2. This was not compliant with the Code and has since been removed by the school.

**Definition of looked after child (paragraph 1.7 of the Code)**

26. The original published arrangements referred to the School Admissions Code of 2012. The amended arrangements now refer to the 2014 Code and define previously looked after children as stated in paragraph 1.7. However, there is no definition in the arrangements of Looked After Children and in order to comply with paragraph 14 of the Code a definition would provide a set of arrangements which are easily understood.

## **Map of the catchment area (paragraph 14 of the Code)**

27. The amended arrangements, a copy of which was sent to me, note that *“The Catchment area is defined by the area delineated on the map appended to this document”*. I received a copy of the catchment area map. However, the map does not appear in the published arrangements on the website. The catchment area is an important part of the arrangements and a map should be readily available as part of the arrangements. This requires amendment.

## **Date of the waiting list (paragraph 2.14 of the Code)**

28. The Code is clear at paragraph 2.14 that a waiting list must be maintained until at least 31 December. The amended arrangements have an additional sentence to this effect but in the first sentence of the section it still states that *“a waiting list will operate until the final day of the first term”*. However, 31 December will always be later than the “final day of the first term” as that term will invariably end before Christmas. This is now confusing as well as not in conformity with the Code and requires amendment.

## **Summary of Findings**

29. An unusually shaped catchment area for this school results in some pupils who live nearer to the school by a straight-line measurement having to travel longer distances in order to reach the school. This means that there are other pupils who live further away from the school by a straight-line measurement whose journey to the school would be shorter but who are unsuccessful in their applications.

30. Oversubscribed schools use oversubscription criteria to prioritise applications in line with the Code and I am of the view that the use of straight-line distance measurements is compliant with the Code. I am also confident that there are sufficient places at local schools for those pupils who live in the catchment area of the school but are unsuccessful in their applications due to the distance tie break.

31. I therefore do not uphold this objection.

## **Determination**

32. 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 2021 determined by the local governing board for Shoreham Academy acting on behalf of the United Learning Trust, West Sussex.

33. 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.



34. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 30 June 2020.

Dated: 4 May 2020

Signed:

Schools Adjudicator: Ann Talboys