



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3693

Objector: Bournemouth, Christchurch and Poole Council

Admission authority: The governing board for Poole High School, Poole

Date of decision: 28 July 2020

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2021 determined by the governing board for Poole High School in the local authority area of Bournemouth, Christchurch and Poole Council.

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 Bournemouth, Christchurch and Poole Council, about the admission arrangements for September 2021 (the arrangements) for Poole High School (the school), a foundation secondary school for children aged 11 to 18. The objection is that the arrangements are not clear.
2. The parties to this objection are:
 - a. Bournemouth, Christchurch and Poole Council which is the objector and the local authority for the area in which the school is situated (the local authority); and

- b. the governing board for Poole High School which is the admission authority for the school (the governing board).

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the governing board. The local authority submitted its objection to these determined arrangements on 13 May 2020. 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. an extract from the minutes of the meeting of the governing board at which the arrangements were determined;
- b. a copy of the determined arrangements including a map of the catchment area for the school;
- c. the local authority's form of objection and further information provided at my request;
- d. the governing board's response to the objection and my enquiries including information on the consultation on the arrangements; and maps showing the previous catchment area for the school compared to the catchment areas of neighbouring secondary schools; and
- e. information available on the websites of the local authority, the Department for Education and the school.

The Objection

6. The oversubscription criteria in the arrangements give different degrees of priority to those who live in the catchment area, to siblings of existing pupils and on the basis of distance from the school (what the arrangements described as "*those who live closest to the school*"). The local authority say that the phrasing of some of the criteria and their numbering makes the arrangements unclear and refers to paragraph 14 of the Code which says, "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand*

easily how places for that school will be allocated.” Paragraph 1.8 of the Code also requires oversubscription criteria to be clear.

Other Matters

7. When I considered the arrangements, I found other matters which I considered did not or might not meet the requirements of the Code. These are listed below (with the most relevant paragraphs of the Code in brackets):
- a. The arrangements include a priority for those who live in the school’s catchment area. The arrangements available online did not include any information on the catchment area. This makes the arrangements unclear and not in conformity with the specific Code provision that catchment areas be “*clearly defined*” (14, 1.8 and 1.14).
 - b. One of the oversubscription criteria is for the ten per cent of selective places at the school. The information about taking the test for these places was not clear and did not clearly meet the requirements that schools with such places must take all reasonable steps to inform parents of the outcome of such tests before 31 October (which is the deadline for applications for secondary places) (14, 1.17 and 1.32c).
8. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the governing board has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.
9. Paragraph 1.32c, as referred to above, says, “*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 - while making clear that this does not equate to a guarantee of a selective place.*” It is clear to me that for the tests for admission in 2021 it may not be possible for the governing board to inform parents of the outcome of the tests by 31 October 2020. This is because the effects of the Covid 19 pandemic mean that it is more important that tests are taken safely for the health of the community than to this timescale. It may be necessary for the tests to be organised in small groups over a period of time for example. Paragraph 1.32c does give flexibility in this matter as it refers to “*all reasonable steps*” and therefore it is appropriate that the timing of the tests and how they are organised this year is at the discretion of the governing board even if this means that parents have not been informed of the outcome of the tests by 31 October 2020.

Background

10. The school has a published admission number (PAN) of 325 of which ten per cent are selected on the basis of ability. The arrangements refer to these students as “*the expressly academic 10%.*”

11. The governing board consulted on the arrangements for 2021 and in particular on the catchment area. The governing board explained that the school was oversubscribed with more children living in its catchment area than the school could accommodate and there were many appeals for places from disappointed applicants. At the same time, some neighbouring secondary schools were undersubscribed. In addition, there was also some overlap of the catchment areas of the secondary schools in the area with the result that some children lived in the catchment area of more than one school. When the school was oversubscribed it used distance from the school as a way to rank those applicants living within the catchment area. The configuration of the different catchment areas and the location of the schools within them meant that some children who lived in the school's catchment area but also in the catchment area of other schools had a higher priority for places at the school than other children who lived further away from the school and in the school's catchment area but who did not live in the catchment area of another school. The school considered, not unreasonably, that children in the latter situation would have been disadvantaged if they could not gain a place at the school as they would not have a high priority on the basis of being in the catchment area for any other school.

12. The governing board undertook an informal consultation to develop new admission arrangements and then, through the local authority, consulted formally on new arrangements as required by the Code. The arrangements on which the governing board consulted proposed a smaller catchment area in order to address the matters described above. The governing board told me that there were 80 responses from members of the public and a response from the local authority. The governing board summarised the responses as falling within three broad categories:

- *“Parents’ dislike of the catchment school for their address*
- *Parents’ dislike of the limiting choice of only being in one catchment*
- *Parents’ concern that an older sibling is already at the school and now the younger sibling has a reduced chance of gaining a place”*

13. Having taken account of the consultation responses, the governing board duly determined its arrangements. These now include a smaller catchment area, as proposed in the consultation, which does not overlap with the catchment areas of other secondary schools. In addition, the arrangements differ from those consulted on by giving some protection (in the sense of a higher level of priority) to the siblings of children already at the school who lived in the previous catchment area but whose home was outside the new catchment area by dint of the change to the catchment area. The oversubscription criteria are (in summary):

- 1) Looked after and previously looked after children
- 2) Children adopted from outside England
- 3) Children of members of staff

- 4) Children selected as the ten per cent most able of those who took the relevant tests
- 5) Children not selected as part of the ten per cent.

14. Criterion 5 is then further divided taking account of residence in the catchment area of school, siblings at the school and distance of the home from the school as described below. The catchment area has the sea as much of its southern and western boundary. The arrangements explain how home to school distance is measured for such situations as a child living on a boat or on an island. Distance takes these factors into account and is measured by the “*shortest, safe and practicable walking route.*”

Consideration of case

15. The objection is that criterion 5 of the oversubscription criteria is not clear. Criterion 5 is particularly important because, while it is theoretically possible that the school will have reached its PAN from the first four criteria, this is highly unlikely and the more likely situation is that the majority of those who apply for admission will be considered under criterion 5. The numbers 1 to 5 appear twice in the arrangements; the second time they are used as a subset of criterion 5. When quoting this subset below I have used square brackets to show that a subset of criterion 5 is being discussed and elsewhere I have numbered the criterion as a subset of criterion 5 without the square brackets.

16. The relevant parts of criterion 5 are:

5) “*Students who have applied for a place in Year 7 and who are not part of the “Expressly Academic”. In the event that category 5 above is oversubscribed then the following criteria will be used in order to rank applicants. Within each category students will be offered places by order of distance to the school:*

[5].1 *Students who live in the school’s catchment area with a sibling who is on roll and who will be attending the school in years 7-13 at the time of admission.*

[5].1a. *Students who live closest to the school with a sibling who was on roll on 6th January 2020.*

[5].2 *Students who live in the school’s catchment area, but without a sibling attending.*

[5].3 *Students who live closest to the school with a sibling who is on roll and will be attending the school in years 7 -13 at the time of admission.*

[5].4 *Students who live closest to the school, but without a sibling attending.”*

17. The local authority said in its objection, “*Criterion [5].1 refers to in-catchment siblings ...while [5].1a, which should be a subset of [5].1, includes both in and out-catchment siblings ... and has been included in addition to existing in-catchment (criterion [5].1) and out-catchment sibling (criterion [5].3) oversubscription criteria.*”

18. I understand that the rationale for the use of 5.1a comes from the responses received by the governing board when it consulted on changing its catchment area because it could not accommodate all those who lived in the catchment area and wished to attend the school. The governing board received a number of responses from parents who were concerned that their younger children would not be able to join older siblings at the school. These were parents who lived in the old catchment area but outside the proposed new catchment area. The governing board said that in response to these concerns, it decided that the determined arrangements would be “*altered [from those consulted on] to reflect the reasonable expectation that when applying for the older sibling (sic) the catchment area and sibling preference would remain unchanged. We added section 1a to catch all families that this could affect.*” My understanding is that the governing board wished to ensure that the changed catchment area would not mean that siblings of those already at the school before the catchment changed would be adversely affected by the reduction in size of the catchment area. To put it another way the arrangements were adjusted to give sibling priority, as if they lived in the catchment area, to a family who had lived in the catchment area before it changed, had not moved and had a child at the school. The principle of this adjustment is sound and similar approaches have been used by other admission authorities when arrangements have been changed.

19. I turn now to consider whether the governing board has determined arrangements which are clear as required by the Code. I note that the intention is that the priority for siblings is sometimes described as when the brother or sister “*will be attending the school*” at the time of admission. As allocations of places are made several months in advance of admission, it is not possible to be certain that this will be the case. It would be more accurate therefore to use words in the relevant criteria such as ‘it is expected that the sibling will still be attending the school at the time of admission.’

20. Otherwise than on this point, criterion 5.1 itself is clear. I turn now to consider whether criterion 5.1a is itself clear and whether its position and the use of the numbering 5.1a might render it unclear. 5.1a will include any child who has a sibling at the school as on 6 January 2020 and who does not fall within criterion 5.1 (or indeed categories 1 to 4 whether the family live in catchment or not). The reference to distance used in the wording of 5.1a is unnecessary as if there is oversubscription within any category in criterion 5 then places are offered on the basis of distance to the school with those who live closer having the higher priority. The date, 6 January 2020, is significant as it means that children admitted after that date will not create a similar priority for any younger sibling. Therefore, a family living outside the catchment area considering making the school a preference in their application with no child already attending the school will know that any younger child will not meet this criterion. I should add that, as worded, 5.1a does not actually require a child’s address to have been in former catchment area for the child to benefit from the criterion. In practice, that may not have any great effect as in the past few years the school has had more applicants than places available from applicants living in the former catchment area.

21. Criterion 5.1a does not specify, as 5.1 does, that the sibling will be attending (or be expected to attend) the school at the time of admission of his or her sibling. I would anticipate that this was an omission as both criteria 5.1 and 5.3 do so. As it stands,

however, it would not be necessary for the older sibling to be expected to attend the school at the time of admission for the priority stated in 5.1a to be given.

22. Criterion 5.2 would include those who live in the newly formulated catchment area and do not have a sibling at the school; this is clear. Criterion 5.3 applies to children who live outside the catchment area and have a sibling at the school, ranked by distance from the school. At first sight, this can give the impression of a repetition of criterion 5.1a with the additional requirement that the sibling will still be attending the school at the time of admission. However, 5.3 would apply only to children who live outside the current catchment area whose siblings joined the school after 6 January 2020. This is because any child with a sibling who lived in the new catchment area would meet criterion 5.1 and any other children with siblings at the school prior to 6 January 2020 will have met criterion 5.1a. This may not be easily understandable to a parent reading the arrangements.

23. The oversubscription criteria use residence in the catchment area. They also use distance of the home from the school and do so both to rank those living in the catchment area and separately to rank those living outside the catchment area. The way they would operate together as the oversubscription are written can be shown in the following examples:

- a. Family A live in the former but not the current catchment area and had a child attending the school as at 6 January 2020. The child is in Year 13 and will have left the school by September 2021. For admissions in 2021 a younger child of Family A would meet criterion 5.1a.
- b. Family B live in the former but not the current catchment area and their oldest child joined the school on 7 January 2020 and is expected to still be at the school in September 2021. The family do not live in the catchment area established for 2021. For admissions in 2021 a younger child of Family B would meet criterion 5.3.
- c. Family C live in the current catchment area and their first child will meet criterion 5.2.
- d. Family D live outside the catchment area, have no child already at the school but live closer to the school than some others inside the catchment area. This child would meet criterion 5.4. Children, with or without siblings at the school, who live inside the catchment area and children with siblings at the school as at 6 January 2020, wherever they live, would have met a higher priority for admission. In practice, this family would be considered as living outside the catchment area, even though that term has not been used in the criterion, although the use of the term may make the arrangements clearer.

24. My understanding is that the intention of the arrangements is that the priority order for the subsets of criterion 5 is (with applicants in each category ranked by distance of the home from the school):

- i. Children who live in the current catchment area and have a sibling at the school who it is anticipated will still be attending at the time of admission

- ii. Other children who have a sibling at the school who was on roll on 6th January 2020 and who it is anticipated will still be attending at the time of admission
- iii. Children who live in the current catchment area
- iv. Children who live outside the catchment area with a sibling who it is anticipated will still be on the school roll at the time of admission and who was admitted after 6 January 2020
- v. Children who live outside the catchment area

25. The governing board has agreed that this is a fair summation. The arrangements appear to me to be fair but I have found there are some factors that make the arrangements unclear. These are:

- a. The numbers used in the arrangements are repeated so that it could appear that there are two sets of criteria. There is one set of criteria with subsets for criterion 5.
- b. The numbering could imply that 5.1a is a subset of 5.1. I do not believe that this is intended to be the case.
- c. Criterion 5.1a is not limited in the way that other criteria are so that the priority applies only if the *“sibling ... is on roll and will be attending the school in years 7 -13 at the time of admission.”* This would make the criterion unclear if it were the intention of the admission authority to be consistent in this matter.
- d. Criterion 5.3 is very similar to 5.1a but it would apply where the sibling joined the school after 7 January 2020. In my view the wording used is not clear and the distinction between 5.1a and 5.3 is likely to be unclear to parents.

26. Thus there are ways in which the oversubscription criteria are not clear for reasons of phrasing and numbering. Paragraphs 14 and 1.8 of the Code require that admission arrangements and oversubscription criteria must be clear. I therefore uphold the objection.

Summary of Findings

27. I find the arrangements are unclear for the reasons given above. There are other matters as described above which do not comply with the Code. The Code requires the governing board to revise the arrangements to address these matters.

Determination

28. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2021 determined by the governing board for Poole High School in the local authority area of Bournemouth, Christchurch and Poole Council.

29. 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.

30. 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: 28 July 2020

Signed:

Schools Adjudicator: Deborah Pritchard