



Determination

Case reference:	ADA3719
Objector:	An individual
Admission authority:	The Pinnacle Learning Trust for The Hathershaw College, Oldham
Date of decision:	13 August 2020

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 Pinnacle Learning Trust for The Hathershaw College, Oldham.

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 an individual (the objector), about the admission arrangements (the arrangements) for The Hathershaw College (the school), an academy school for boys and girls aged 11 to 16, for September 2021. The objection is to the priority given for attendance at certain primary schools within the oversubscription criteria.
2. The local authority (the LA) for the area in which the school is located is Oldham Council. The LA is a party to this objection. Other parties to the objection are The Pinnacle Learning Trust, a multi-academy trust, and the objector.

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 academy trust, which is the admission authority for the school, on that basis. The objector submitted his objection to

these determined arrangements on 14 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.

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 academy trust at which the arrangements were determined;
 - b. a copy of the determined arrangements;
 - c. the objector's form of objection dated 14 May 2020 and supporting documents;
 - d. the admission authority's response to the objection, supporting documents and its response to my enquiries;
 - e. the LA's response to the objection and its response to my enquiries;
 - f. details of the consultation undertaken by the admission authority in respect of the arrangements;
 - g. maps of the area showing local primary and secondary schools;
 - h. details of the allocation of places at the school for admission in September 2020;
 - i. information on the LA's website showing how places were allocated at secondary schools in Oldham for admission in September 2020;
 - j. the OfSTED inspection report for Werneth Primary School published in May 2019; and
 - k. information contained on the Department for Education website, "Get Information About Schools" (GIAS).

The Objection

6. The objector argues that the giving of priority for places to children who attend a primary school that is part of The Pinnacle Learning Trust (the PLT) and, at a lower point in the oversubscription criteria, to children who attend primary schools that are members of West Oldham Trust (the WOT) breaches the Code in three ways, namely:

- contrary to paragraph 1.8, the arrangements unfairly disadvantage children from particular social and racial groups, including children who live in Fitton Hill and attend Medlock Valley Community Primary School and children who live locally to

the school, having moved to the area from parts of Europe or Africa;

- the arrangements take into account attendance at certain primary schools, but do not name them as feeder schools, as required by paragraph 1.9 b); and
- the selection of the feeder schools as oversubscription criteria is not transparent and made on reasonable grounds, as required by paragraph 1.15.

Background

7. The school is located in the large town of Oldham in Greater Manchester. It is part of the PLT, a multi-academy trust (MAT) that also includes Werneth Primary School and Oldham Sixth Form College (OSFC). The school is also a member of the WOT. This is not an academy trust; rather it is a charitable trust, facilitated on its establishment by the Co-operative Society. The other members of the WOT are Broadfield Primary School, St Martin's Church of England Primary School, Holy Rosary Roman Catholic Primary School, OSFC and Oldham Athletic Community Trust. The school was oversubscribed for admission in September 2020. Parents of 286 children made the school their first preference. The Published Admission Number (PAN) is 210.

8. Following a period of consultation, during which the LA expressed support for the proposed arrangements, oversubscription criteria were determined for admission in September 2021 that differ from those for 2020. They can be summarised as follows (note that wording in quotation marks is verbatim from the arrangements):

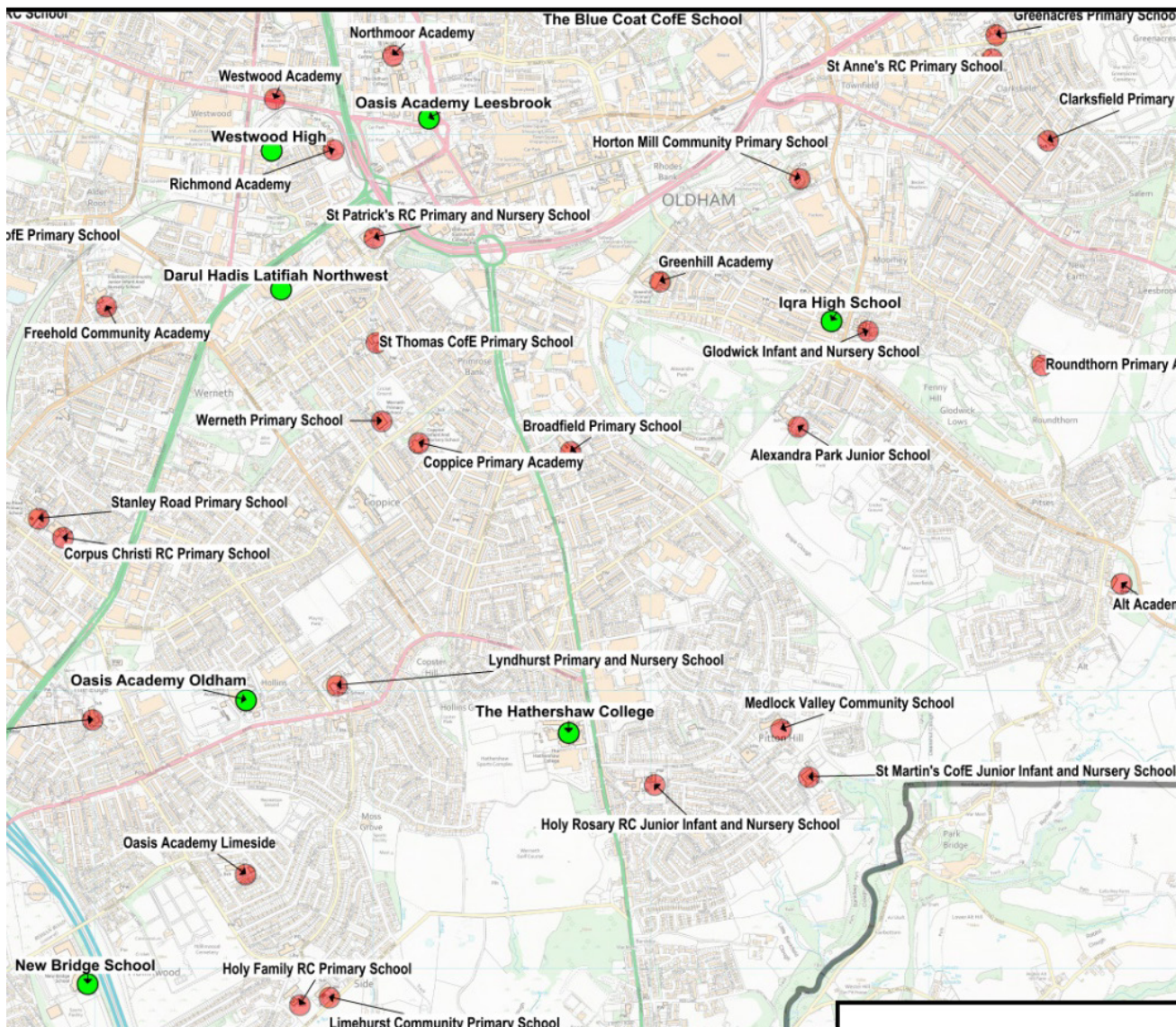
1. Looked after children and previously looked after children.
2. "Children applying from one of our named partner primary schools in The Pinnacle Learning Trust" who have a sibling attending the school.
3. "Children applying from our named partner primary schools within The Pinnacle Learning Trust."
4. Children who have a sibling attending the school.
5. "Children applying from one of our named partner primary schools in West Oldham Trust."
6. Other children.

Within each criterion, priority is given according to the distance the child lives from the school. The tie breaker, where distances are equal, is random allocation.

9. Within the "Definitions and details" section of the arrangements Werneth Primary School is named as "our partner primary school" in the PLT. Broadfield, St Martin's and Holy Rosary schools are named as "Partner Primary Schools – Through West Oldham Trust."

10. In the arrangements for admission in September 2020, there was no mention of the PLT. The second and third criteria gave priority to children attending schools in the WOT, with and without a sibling respectively, followed by other siblings and, finally, other children.

11. Map one shows the locations of schools in the area to the south of Oldham town centre.



Map One: Location of Schools South of Oldham Town Centre

Consideration of Case

12. I will consider in turn the three ways in which the objector submits that the arrangements breach the Code in the order that they appear in the objection; these are listed in paragraph 6 above. He summarises his objection as follows:

“In essence, the application of the oversubscription criteria (based on Primary School attended, rather than proximity) will mean that some children who live close to the school will virtually have to travel past the school, or undertake significantly longer journeys, to get to the next closest secondary school. This is self-evidently unfair, and the injustice is compounded by the fact that many of these children already suffer high levels of deprivation.”

13. The objector identifies three groups of children that he believes are disadvantaged unfairly by the arrangements:

- (a) Children attending Medlock Valley Community School, which he describes as serving an area (Fitton Hill) of “extreme disadvantage”;
- (b) Children newly arrived in the area from outside the UK, who live close to the school, but attend primary schools further away (Northmoor Academy is mentioned in particular); and
- (c) Children who live closer to the school than others who might be allocated places because they attend a feeder school.

He says that the unfair disadvantage that the arrangements cause to these groups is a breach of paragraph 1.8 of the Code, part of which he quotes as follows:

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

14. I will refer to the extent and nature of the disadvantage the arrangements may cause in due course but first I must consider whether the groups of children listed by the objector constitute “a particular social or racial group” within the meaning of paragraph 1.8.

15. With respect to the children attending Medlock Valley Community School, the objector is right to say that the area served by that school, that is, Fitton Hill, ranks poorly on measures of deprivation. The Indices of Deprivation show that it is amongst the ten per cent most deprived locations in the country. It may be appropriate to describe the residents of this area as a “a particular social group”. However, it is not the case that all residents of Fitton Hill are potentially disadvantaged in terms of admission to The Hathershaw College; it is only those who attend Medlock Valley Community School. Some children living in Fitton Hill will attend St Martin’s Church of England School, which is almost adjacent to Medlock Valley. It is likely that others attend Broadfield and Holy Rosary Schools. St Martin’s, Broadfield and Holy Rosary are the three WOT feeder schools. Any disadvantage to children attending Medlock Valley is a result not of their being part of a particular social group, but because of the primary school they attend. I do not consider that this falls within the ambit of paragraph 1.8.

16. The second group identified by the objector comprises children he describes as “new arrivals.” He explains,

“We know locally that many families from Eastern Europe, and of African descent (via Southern Europe) have been moving into area close to Hathershaw College since the 2011 census. Due to existing pressure on school places, many of these children have been allocated [primary] schools some distance away”.

The objector cites Northmoor Academy as an example. He quotes figures showing that in January 2019, over 50 per cent of that school’s roll had arrived in the UK since September 2016. He says that because Northmoor is not a named feeder school, children attending Northmoor who live close to The Hathershaw College “will find it harder to gain a place at

their secondary school.” The arrangements, he argues, “have the effect of discriminating against these local, already disadvantaged groups.”

17. Although the objector mentions families that have arrived in the UK from specific parts of the world, I am not convinced that he has identified “a particular racial group” that is disadvantaged by the arrangements. Rather, he is concerned about a group of people who have arrived in the UK recently, with more than one ethnicity represented amongst them. I do not consider that this is the type of group that paragraph 1.8 is referring to.

18. Finally, the objector mentions children who,

“are less likely to get places at Hathershaw College, even though they might live closer than other applicants – simply because the arrangements are conducted on the basis of primary school attended, rather than proximity.”

In particular, the objector mentions children who attend Coppice Primary School and St Thomas Church of England Primary School. However, while it may be possible to identify children whose addresses put them into the situation described by the objector, in my view they do not in any way constitute “a particular social or racial group.” Such children will live in different locations, have different family and social circumstances and a number of ethnicities. They are not encompassed by the wording of paragraph 1.8.

19. I find, therefore, that the arrangements do not breach paragraph 1.8 of the Code, as the objector has not identified “a particular social or racial group” that may have been disadvantaged unfairly by them. My finding in this respect is limited to this specific point. I am not, at this stage, concluding that the arrangements are fair in their effect. Elsewhere, in paragraph 14, the Code states:

“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.”

I shall return to the matter of fairness in due course.

20. The second aspect of the objection can be dealt with more briefly. The objector argues that the arrangements contravene paragraph 1.9 b), which states that admission authorities **must not** “take into account any previous schools attended, unless it is a named feeder school.” He says,

“The arrangements do not name a feeder school, but would seem to operate with a number of feeder schools, ranking children according to Primary school attended.”

My reading of this statement is that the objector is concerned that the arrangements name more than one feeder school or possibly that there are two groups of feeders with different degrees of priority attached to each. Neither of these is in breach of the Code. I am in no doubt that the wording of paragraph 1.9 b) does not restrict schools to having only one feeder school. This is confirmed by the wording of paragraph 1.15, which refers to “a feeder school or schools” (quoted in paragraph 16 below). Nor is there anything in the Code that

states or suggests that where there is more than one feeder, each must attract the same degree of priority.

21. It is the case that at the point in the admission arrangements where the oversubscription criteria are set out, the feeder schools are not listed (see paragraph 8 above), but elsewhere in the arrangements each feeder school is named and this ensures compliance with the Code. The objector is concerned that the second criterion giving priority to children attending primary schools in the PLT could include Werneth Primary School “and any other school that might join the trust.” This is not the case. The only school that the admission authority can give priority to under this criterion for admission in September 2021 is Werneth Primary School. If other primary schools were to join the PLT and the trust, as admission authority for the school, wished to give children attending them priority for places, it would need to seek a variation to these arrangements so far as 2021 is concerned or in future years include them as named feeder schools in its arrangements, which need to be determined annually and for which consultation would be required as this would constitute a change to the arrangements. My jurisdiction extends only to the determined arrangements for admission in September 2021.

22. Finally, the objector says that the arrangements breach paragraph 1.15 of the Code, which stipulates,

“The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.”

The objector says the selection as a feeder school of Werneth Primary School, which “is further away than a number of primary schools...appears completely illogical.” He also questions whether the inclusion of the three primary schools that are members of WOT,

“should have any relation to admission to Hathershaw College when its own statement of its “Objects” and “Significant Activities” is so tangential to the question of Secondary School Admissions.”

23. I do not agree that the selection of the feeder schools is not transparent. They are named in the arrangements, based on their membership of either the PLT or the WOT. That is perfectly clear. With respect to whether their selection is “made on reasonable grounds”, the Code does not provide a definition of the phrase. I take it to mean that the admission authority must be able to explain legitimate reasons, that is, reasons that are not irrational or illogical, for their inclusion as feeder schools. There has been some discussion amongst the parties, based on a legal view published online, that in order for a primary school within a trust to be named as a feeder school, it is necessary to,

“demonstrate clear evidence of **extraordinary links** beyond simply being part of the same MAT.” (My emphasis).

In my opinion the term “extraordinary links” overstates the Code’s stipulation that the selection of feeder schools must be “on reasonable grounds”.

24. I consider first the reasons given by the admission authority for the inclusion of Werneth Primary School as a feeder school for admission in September 2021. This school has not previously appeared in the admission arrangements of The Hathershaw College. In February 2019, Werneth Primary School joined the PLT, having previously been part of another MAT. An OfSTED inspection in May 2019 found the school to require improvement. The inspection report states,

“Leaders from the Pinnacle Learning Trust are working closely with senior leaders and are eager to move the school forward.”

25. The admission authority has provided information about the relationship between The Hathershaw College and Werneth Primary School. There has been a shared focus between the three academies in the PLT (Hathershaw, Werneth and OSFC) on “evidence-informed teaching and learning strategies” for which training has been provided at each of the schools. There is a common approach to the delivery of online teaching and learning:

“Hence, staff from Hathershaw and OSFC are supporting colleagues at Werneth with the effective implementation of this [online learning] platform and the associated best practice teaching and learning.”

The PLT refers to “numerous examples of shared practice and resources across the Trust” and the provision of French teaching at Werneth by staff at Hathershaw.

26. In respect of the PLT as a whole, the admission authority says,

“Whilst our Trust is relatively young and this is a continually developing area of our work, the cross-phase and ‘all-through’ nature of the Trust has been a key driver in our vision from the start.”

Amongst the practical implications is listed, “having a shared and consistent approach to behaviour.” The intended impact on those learning at schools in the trust is summed up as follows:

“Thus, students having experienced a consistent approach from primary through to secondary and on to post-16 will already be familiar with many of the routines and practices in places as they transfer to the next phase and will adjust more readily at transition points in addition to hopefully securing better outcomes within each phase as a result of our shared effective practice.”

27. I agree with the view quoted in paragraph 23 above to the extent that being a member of the same MAT as a secondary school does not automatically make the naming of a primary school as a feeder school reasonable, solely on this basis. Some MATs are large and cover wide geographical areas so that naming a primary in one area as a feeder to a secondary in another distant area would not be logical or rational. In this case, though, the relationship is more intimate, as there are just three academies in the MAT. Werneth Primary School requires improvement and the PLT is responsible for implementing strategies to ensure improvement takes place. The Hathershaw College has an important

role to play in this. The evidence I have been provided with suggests that some initiatives are in their early stages, but the opportunity for children to experience similar approaches to teaching and learning and expectations of behaviour as they progress through the phases of education has the potential to lead to improved outcomes. I consider that reasonable grounds for the selection of Werneth Primary as a feeder school to The Hathershaw College have been provided.

28. The other three feeder schools are members of the WOT and children attending them have priority under the fifth oversubscription criterion on this basis. The WOT was established in 2009, comprising The Hathershaw College, OSFC, the three primary schools that are feeder schools under the fifth oversubscription criterion and a number of other stakeholders. At the same time, The Hathershaw College and Broadfield Primary School changed category from community to foundation schools, acquiring a foundation, that is, the WOT. The Hathershaw College subsequently converted to academy status, but Broadfield continues as a foundation school on the same basis.

29. The report of the trustees of the WOT for the year ending 31 August 2019 states that,

“The objectives of the Trust are to advance the education of pupils at the schools, to advance the education of other members of the community and otherwise to benefit the community.”

Under the heading “Significant activities”, reference is made to a sports pitch that the WOT hires for community use, but nothing further is said about the schools that are members of the trust. The objector comments, in relation to the WOT,

“The question must be asked whether its activities are significant enough to warrant the potential injustices in local admissions arrangements.”

30. In response to my enquiring, the admission authority explained that The Hathershaw College provides French teaching at the three primary schools in the WOT, which it does not do at any other schools, other than Werneth Primary. It also mentions cross-curricular and joint moderation work carried out between teachers at Hathershaw, Broadfield and St. Martin’s. The admission authority commented,

“Although we acknowledge that the strategic priorities of WOT have waned slightly over the last few years due to the formation of the PLT, we feel that there is now a great opportunity to review the work of WOT and strategically link the two trusts for the benefit of our students and the local community.”

31. I recognise that the link between The Hathershaw College and the three primary schools in the WOT is of relatively long-standing. Indeed, the admission authority states that “Hathershaw’s current Admissions Policy has been in place for over 10 years.” However, at present, it seems to me that the extent and nature of joint working between the schools in the WOT and the activity of the WOT itself are rather limited. Furthermore, in contrast with its relationship to Werneth Primary School within the PLT, Hathershaw has no

specific responsibility towards to the schools in the WOT or accountability for their performance. Nevertheless, I would not go so far as to say that the inclusion of the three feeder schools is irrational or illogical. The history of shared working within the WOT and some current activities, albeit limited in scope, provide reasons for their selection. In my view the reasons are rather weak, but I consider that they do still pass the “reasonable grounds” test, and so the arrangements do not breach paragraph 1.15 of the Code in this respect. I note, too, that the priority for children attending schools in the WOT has been ‘demoted’ from the second and third oversubscription criteria in the arrangements for admission for September 2020 to the fifth criterion in the 2021 arrangements.

32. My finding that the feeder schools have been selected on reasonable grounds is not, in fact, the end of my consideration of their compliance with the Code. As I mentioned earlier, paragraph 14 of the Code requires the criteria used to decide the allocation of school places to be fair. The objector makes reference to the Annual Report of the Office of the Schools Adjudicator, published in February 2018, which points out that if the giving of priority by a secondary school to children from certain feeder primaries has the effect that other children will face significantly longer or more difficult journeys to different schools as a result, then the arrangements are likely to be found to be unfair.

33. Establishing the likely effect of a revised set of arrangements is not a straightforward matter. The starting point is to look at the allocation of places in the previous year, that is, for admission in September 2020. Table One, based on information provided by the admission authority, shows the number of children from local primary schools admitted under each oversubscription criterion and the number of children whose parents made the school their first preference who were not allocated a place. The oversubscription criteria were as follows:

1. Looked after and previously looked after children.
2. Children attending a WOT school with a sibling at The Hathershaw College.
3. Other children attending a WOT school.
4. Other siblings.
5. Other children, prioritised by distance.

Table One: Allocation of places in year 7 for September 2020

Primary School	Admitted under WOT criteria (2, 3)	Admitted as siblings (4)	Admitted by distance (5)	First preferences not admitted
Alexandra Park Junior		2	2	19
Broadfield Primary	31			0
Coppice Primary		19	8	10
Greenhill Academy		9	2	11
Holy Rosary RC Primary	6			0
Lyndhurst Primary		4	14	1
Medlock Valley Primary			25	0
Northmoor Academy		4	5	3
St Martin's CE Primary	20			0
St Thomas CE Primary		5	2	19
Werneth Primary		7	7	16
Other schools		10	18	24

The last child admitted to the school for September 2020, under the distance criterion, lived 0.631 miles from the school.

34. The oversubscription criteria determined for admission in September 2021, which are set out in paragraph 8 above, replace the second and third criteria relating to children attending schools in the WOT with similar criteria relating to children attending schools in the PLT, that is, Werneth Primary School. The fourth criterion continues to prioritise children with siblings at the school. A new fifth criterion gives priority for children attending one of three primary schools in the WOT, with other children prioritised by distance becoming the sixth criterion.

35. The LA has confirmed that it expects the overall pressure on places in year 7 across Oldham to be broadly similar in September 2021 to that in September 2020. Demand will be higher but additional places will be provided at Oasis Academy Leesbrook. I note that Oasis Academy Leesbrook is scheduled to move to a new site during the course of the 2020-2021 academic year, close to Roundthorn Primary Academy on the eastern edge of Map One. In respect of the primary schools located in the vicinity of The Hathershaw College, the number of children entering year 6 (Y6) in September 2020, who will be transferring to secondary school 12 months later, is almost exactly the same at every school as the number who have recently completed Y6 and transfer to secondary school in September 2020. The biggest difference is that there will be 42 children starting Y6 at Medlock Valley Community School, compared to 46 who have completed Y6.

36. Future patterns of parental preference are more difficult to predict. It is possible that the developing work of the PLT may lead to an increase in first preferences for The Hathershaw College for children attending Werneth Primary School. I would certainly not

expect the figure to be lower. Overall, therefore, I have some confidence in assuming that the effect of the arrangements for admission in 2021 will be that a minimum of 16 additional children from Werneth Primary School will obtain a place (that is, the number of children for whom The Hathershaw College was a first preference for admission in 2020 who did not obtain a place). That would mean that 16 fewer children would be allocated a place prioritised by distance. Children attending the three WOT feeder schools would continue all to be allocated places.

37. I must emphasise that my conclusion above is based on a range of assumptions that may prove to be quite significantly wide of the mark. However, in my view, it is safe to assume that the number of children admitted to Hathershaw in September 2021 on the basis of distance will be fewer, as a direct result of the additional children who will be admitted under the new PLT feeder school criteria. This will mean that the distance from the school that a child will need to live in order to be allocated a place under the last criterion will be shorter. Helpfully, the admission authority has attempted to produce a figure for the reduced distance. Based on admitting 19 additional children from Werneth, it says that the last place for admission in September 2020 would have been allocated to a child living 0.524 miles from the school.

38. In order to establish whether the effect of the admission arrangements (specifically, the feeder school criteria) is unfair, I need first to establish whether children unable to obtain a place at The Hathershaw College face a significantly longer or more difficult journey to school. What constitutes such a journey cannot be laid down precisely, but in an urban area where secondary schools are located in relatively close proximity to one another, I would concur with previous determinations of adjudicators that most children living in such areas, in the majority of circumstances, could reasonably be expected to have access to a secondary school within about a mile and a half of their home. For children living to the north and west of The Hathershaw College, both Oasis Academy Leesbrook (on its present site) and Oasis Academy Oldham are well within this distance. I recognise that, at its new site, Oasis Academy Leesbrook, is more than a mile and a half away from this area. Nevertheless, according to GIAS, the distance from Coppice Primary School and St Thomas Church of England School to Oasis Academy Oldham is 0.63 and 0.87 miles, respectively. For children living to the east of Hathershaw, the situation is less straightforward. This is the area about which the objector is most concerned. From Medlock Valley Community School to Oasis Academy Oldham is about 1.25 miles; Oasis Academy Leesbrook at its new site is a similar distance as the crow flies but the journey would be considerably longer due to the large area of open space in between. Some addresses to the east of Medlock Valley School are almost 1.5 miles from Oasis Academy Oldham. For admission in September 2020, Oasis Academy Oldham admitted children who lived more than 1.5 miles away.

39. The distance from Medlock Valley Community School to The Hathershaw College is almost exactly half a mile. For admission in September 2020, when the last place was allocated to a child living 0.631 miles away, the data from the school indicate that all applicants from Medlock Valley whose parents wanted them to attend Hathershaw obtained a place. Although the distance from the school of the last child admitted in September 2021

is very likely to be shorter, it is by no means certain that any children from Medlock Valley will not obtain a place. If it does prove to be the case that some children from Medlock Valley are not admitted, they will face a longer journey to secondary school of just under one and a half miles.

40. I should add that for admission in September 2020, the LA asked the school to admit an additional ten children to help relieve pressure on places in the town. This meant that 220 places were allocated and the distance of the last child admitted from the school was 0.665 miles. Neither the admission authority nor I have taken the effect of these additional places into account in the table above or in predicting the potential allocation of places for September 2021, for which the PAN remains at 210. I note the school's statement in its response to me,

"Hathershaw is keen to renew its estate and would be willing to provide for a greater number of pupils routinely, if it had a building that made this possible."

However, no suggestion has been made that more than 210 places will be allocated for admission in September 2021.

41. As I mentioned earlier, the objector described the arrangements as "self-evidently unfair." He says that children from the Fitton Hill area who attend Medlock Valley Community School may well face a journey to an alternative school (in this case, Oasis Academy Oldham) that would mean they will "will virtually have to travel past the school." I would add that it is children on the eastern edge of the Fitton Hill who would face such a journey; they live further from The Hathershaw College and are also further from the alternative school.

42. I do not agree with objector that such an outcome is "self-evidently unfair." The Code does not confer a right for children to attend their nearest school or require admission arrangements to be based on proximity. Many of the examples of oversubscription criteria mentioned in the Code, including priority for siblings and those attending feeder schools, can have the effect of giving a higher priority to children who live further away from the school, as is the case here. Indeed, the requirement for all schools to give first priority to looked after and previously looked after children may disadvantage a small number of children who live closer to the school. The reason for giving such a priority is so strong that few would argue that other children have been unfairly treated. Similarly, in a catchment area system, it may be necessary for some children to attend the second or third nearest school to avoid others having an excessively long journey to school. The assessment of the fairness of the effect of admission arrangements requires a balancing judgment, between the benefits resulting to some children from an oversubscription criterion and the disadvantage it may cause to others. If the benefit created by a priority is less significant, the possibility of unfairness in specific circumstances may arise.

43. In this case, I have found the inclusion of criteria giving priority for children attending feeder schools is reasonable, both for Werneth Primary School and the schools in the WOT. The combined effect of the feeder school oversubscription criteria may be to deny some children from the Fitton Hill area a place at The Hathershaw College. I consider the

benefits for children attending Werneth Primary School to be able to attend The Hathershaw College to be significant, as outlined in paragraphs 23 to 27 above. As far as the WOT schools are concerned, I recognise some benefits for the children arising from familiarity with staff at Hathershaw who have provided French teaching and for the schools themselves, building on their historic experience of working together as part of a co-operative trust. However, these benefits are, in my view, relatively limited, and do not outweigh the disadvantage caused to children attending a different primary school in a deprived neighbourhood, who could face a journey to secondary school up to three times as long (albeit a little under 1.5 miles), taking them past The Hathershaw College, which is their nearest school.

44. If I could confidently expect the effect of the fifth oversubscription criterion for admission in September 2021 to be that some children from Fitton Hill will not be able to obtain places at The Hathershaw College, I would, as a result, be minded to regard this as a breach of the requirements of paragraph 14 of the Code relating to fairness. However, as I explained in paragraph 39 above, the figures are so finely balanced that I cannot be certain that this will be the case. I also recognise that many of the children who attend the WOT feeder schools and benefit from the fifth criterion themselves live in Fitton Hill. In these circumstances, it is not possible for me to say that the effect of the arrangements will be unfair in a way that contravenes the Code. Nevertheless, I would expect the admission authority to review the outcomes of the September 2021 admission round very carefully. If unfairness of the sort I have potentially identified were to occur or to be considered certain to occur in the future, it may well be that an objection made to the adjudicator would lead to a finding of unfairness.

45. Before concluding I must comment on the issue of the effect of the admission arrangements on the profile of the ethnicity of students at the school. As I explained above, this matter was first raised by the objector in connection with children newly arrived in the UK who live close to the school but do not attend one of the feeder schools. Children attending Northmoor Academy were specifically mentioned. As Table One shows, nine children from this school were allocated places for September 2020 and only three whose parents made the school their first preference were not. I do not find that this state of affairs constitutes any breach of equalities legislation; indeed, the objector did not pursue the matter in that way.

46. However, the objector did raise a concern arising from a remark made by a governor in minutes of a meeting supplied by the school. At that meeting, it was pointed out that,

“there will be implications in terms of ethnicity composition at Hathershaw as the students attending Werneth are predominantly Pakistani.”

The objector noted that,

“more white English students live in areas immediately around the school and would potentially lose places to more distant, “predominantly Pakistani” students from Werneth Primary School.”

In later correspondence, he quoted from an Oldham Council report that refers to,

“areas of deprivation where the population is largely White-British heritage, for example in the Fitton Hill and Medlock Vale areas.”

47. By way of response, the school has helpfully provided data about its ethnicity breakdown over several years and further information from the LA. It draws attention to “recent population changes by ethnic group” across areas of the town. It does not expect the arrangements of themselves to alter the ethnicity profile of the school.

48. With respect to the likely pattern of admissions in September 2021, which is the extent of my jurisdiction, I have not found that it is at all certain that children from Fitton Hill will be unable to obtain a place at the school. Therefore, I make no further comment, other than to say that the school will need to keep this matter under close review to ensure that in future years its arrangements do not run the risk of a challenge that they may cause indirect discrimination on the grounds of race.

Summary of Findings

49. The objector has not identified “a particular social or racial group”, within the meaning of paragraph 1.8 of the Code, that could be said to have been disadvantaged unfairly by the arrangements. The feeder schools are named in the arrangements, as required by paragraph 1.9 b). In accordance with paragraph 1.15, the selection of the feeder schools is transparent and the grounds for their selection are reasonable; the grounds are stronger for Werneth Primary School than they are for the schools in the West Oldham Trust. I do not uphold the objection.

50. I identified a potential unfairness in the arrangements that could affect children living in the Fitton Hill area, who attend Medlock Valley Community School. Some children may be unfairly disadvantaged, by having to attend a more distant alternative secondary school, as a result of not attending a school in the West Oldham Trust, and this disadvantage outweighs the benefits of the priority for children attending the schools in the trust. However, I am far from certain that this outcome will actually occur for admission in September 2021 and therefore I do not find this set of arrangements in breach of paragraph 14 of the Code in this respect.

Determination

51. 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 Pinnacle Learning Trust for The Hathershaw College, Oldham.

Dated: 13 August 2020

Signed:

Schools Adjudicator: Peter Goringe