



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: REF3747**

**Referrer: Two parents**

**Admission authority: Watergrove Trust for Wardle Academy, Rochdale**

**Date of decision: 23 September 2020**

## Determination

I have considered the admission arrangements for September 2021 for Wardle Academy, Rochdale in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the measurement of home to school distance, the arrangements do not conform with the requirements. I have also found that 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. I require the admission authority to revise its admission arrangements by 28 February 2021.

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of Schools Adjudicator (OSA) by two parents, (the referrers), about the admission arrangements (the arrangements) for Wardle Academy (the school), for September 2021, the date of the referral was 31 July 2020.
2. The referral related to the measurement of home to school distance.
3. When the arrangements were brought to my attention, I considered that the following additional matters did not, or might not, conform with the requirements for admission arrangements.
  - a. The arrangements included some obsolete terms and so may not meet the requirement of paragraph 14 of the Code for them to be clear.

- b. The arrangements did not appear to meet the requirements of paragraph 2,14 of the Code concerning waiting lists or paragraph 2.17 concerning requests for admission outside of the normal year group.

4. The parties to the case are Watergrove Trust (the trust), which is the multi-academy trust and admission authority for the school, Rochdale Borough Council, (the local authority), the governing board of the school and the referrers.

## Jurisdiction

5. The terms of the Academy agreement between the 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 under section 88C of the Act by the governing board on behalf of the trust on 20 January 2020 on that basis.

6. The referrers submitted an objection to these determined arrangements on 31 July 2020. The School Admissions Code (the Code) requires objections to admission arrangements for 2021 to be made to the Office of the Schools Adjudicator by 15 May 2020. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

## Procedure

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

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

- a) the referrer's form of objection dated 31 July 2020;
- b) copies of the minutes of the meeting of the governing board at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the governing board on the matters raised;
- e) comments from the local authority on the matters raised; and
- f) maps of the area identifying relevant schools.

## The Referral

9. The referral questioned whether the way in which home to school distance was measured was clear or fair. Paragraph 14 of the Code requires that “the practices and the criteria used to decide the allocation of school places are fair, clear and objective.” Paragraph 1.8 requires that oversubscription criteria are “reasonable, clear, objective [and] procedurally fair” while paragraph 1.13 requires admission authorities to clearly set out how distance from home to school will be measured.

## Other Matters

10. The arrangements refer to statements of special educational need. These are now obsolete having been replaced by Education, Health and Care Plans (EHCP). The use of obsolete terms can make admission arrangements unclear. This is particularly so when the arrangements state that any child with a statement or EHCP will be allocated places before other children. This is not the case unless the EHCP names the school. The arrangements also use the obsolete term “residence” order. These were replaced with child arrangements orders by the Children and Families Act 2014.

11. The section in the arrangements on waiting lists does not meet all the requirements set out in paragraph 2.14 of the Code. Paragraph 2.17 of the Code requires admission authorities to make clear in their arrangements the process for requesting admission out of the normal age group, this information did not appear in the arrangements.

12. When I raised these matters with the school it undertook to address them and I will not refer to them again in this determination.

## Background

13. The school is an 11 to 16 school situated to the north-west of Rochdale. It became an academy in September 2013; there are one other secondary school and three primary schools in the trust, all in the same local authority. The Department for Education database shows that there are five other secondary schools within a three-mile radius of the school.

14. The published admission number (PAN) is 240 and the oversubscription criteria can be summarised as:

1. Looked after and previously looked after children
2. Children with exceptional medical or social needs
3. Siblings of children at the school
4. Children eligible for the service premium
5. Children from named feeder schools

6. Children of members of staff
7. Relative proximity and ease of access

## Consideration of Case

15. The referral included extracts from communications between the referrers and the local authority about the way in which the relative proximity calculation for their child had been undertaken. It also included maps and photographs of parts of the measured routes and the referrers' views on the safety of parts of those routes. It is not for me to consider individual cases, or to determine whether a particular path is a safe route. My jurisdiction is for the arrangements, not how they are operated. Complaints about the operation of the arrangements should be addressed the admission authority and if not resolved taken to the Education and Skills Funding Agency.

16. The full text of the seventh oversubscription criterion is

“7. Relative proximity and ease of access - (where you live):

Once places have been allocated using criteria Special Educational Needs, 1, 2, 3, 4, 5 and 6, any remaining places are allocated on the basis of criteria [sic] 7, relative proximity and ease of access to the school but also other schools nearby.

Relative proximity is determined by:

1. Measuring the shortest, suitable walking distance from the child's home to the main gate of the school being applied for (Distance A).
2. Measuring the shortest, suitable walking distance from the child's home to the main gate of the nearest school to the home address other than the school that is being applied for (Distance B).
3. Distance B is then subtracted from Distance A to provide a figure known as the relative proximity calculation.

The relative proximity calculation provides the difference in distance that a child would have to travel to attend the school being applied for and the nearest school to home that is not the school being applied for and, as such, establishes a priority ranking.

If the relative proximity calculation is the same for one or more applications, priority will be given to the child who has further to travel to the school that is not the school that is being applied for. If after this it is still not possible to decide on who should be offered the place then any final place will be decided by the drawing of lots.”

17. The Code requires that arrangements are clear. Paragraph 14 says “Parents should be able to look at a set of arrangements and understand easily how places for that school

will be allocated.” Understanding this complex criterion is not helped by the words “the school being applied for”, when “the school” or “Wardle Academy” would be sufficient. I am told that the wording is that suggested by the local authority which has a similar criterion for its community schools. Where the local authority is the admission authority for more than one school a general term may be appropriate, but a more specific term would be clearer for a single school.

18. In the context of the arrangements one is required to assume that “school” means state-funded mainstream secondary school. It would be manifestly unfair if living close to another school which was, say, a special school, primary school or private school, reduced a child’s priority for this school. However, it seemed to me that similar unfairness could arise to a child living close to a state-funded mainstream secondary school if there was no or little possibility of them being able to secure a place at it. This could be because they could not meet a faith-based requirement in the oversubscription criteria, or if it was a selective or single sex school.

19. The unfairness identified by the referrers stemmed from the operation of the criterion, not the principle behind it. When I raised my concern about the fairness of the criterion with the school I was told that this criterion was introduced for the first time in 2020 to address “feedback from the community which highlighted young people having to travel across Rochdale (from the Pennine region) to other schools when other families lived closer to those schools which are further away for those families to whom the child was originally allocated [sic]. The intended impact was to reduce the level of disadvantage through travel (distance and time) in the allocation of school places.” I was told that the impact and fairness of this criterion was due to be reviewed by the governors in the first half of the current term. I will, therefore, make no finding on whether or not this criterion is fair and will leave the governing board to undertake their planned review of these matters.

20. I will, however, consider whether the way in which distance is measured is clear and objective. Paragraph 1.13 of the Code says “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.”

21. The arrangements refer to “the shortest, suitable walking distance from the child’s home to the main gate of the school”. Walking distances will vary depending on choices made about which side of the road someone walks, whether roads are crossed at a point of convenience or whether an additional distance is walked to a pedestrian crossing and other variable factors. What may be a suitable path on a dry day in daylight in June, may not be a suitable path on a dark wet evening in December. I asked the school by what criteria a route is deemed to be a “suitable walking” route and how this was measured objectively.

22. The school did not respond to me about these matters; however, the local authority, which I understand undertakes the measurement of distance for the school, provided a detailed description of the software it uses to do so. This described small incremental sections of roads or paths called “links” and included the following statement “Any links supplied by OS [Ordnance Survey] that the local authority deem not suitable for walking

may be excluded from any route calculations”. The local authority make these decisions based on information from OS about streetlights and pavements. Evidence provided by the referrers suggests the possibility that some of this data may not be accurate, or the definition of what constitutes streetlighting or pavement may not be clear and certainly not understood easily by some parents.

23. The local authority’s description says “For the starting address, the route will be measured from the nearest point where the address joins the OS Highways Network. The same end coordinates will be used for the school for all applications and this defaults to the coordinates provided by the DfE GIAS [Get Information About Schools] Establishment data set but may be overridden for an individual establishment where agreed with a specific school.” This is not the same as what is said in the arrangements. The arrangements describe distances as being measured from the child’s home to the main gate of the school. This is not what the local authority are measuring.

24. When a child may not get the offer of a place at a school because they live a few centimetres farther away than another the points between which distance is measured must be unambiguous and clear. There is scope for ambiguity in what is said in the arrangements, gates can be several metres wide and precisely where in the home is the measurement taken from? The fact that distances are measured by the local authority is not stated in the arrangements and the method by which it is done is not made clear to parents.

25. Admission authorities may contract with other bodies such as local authorities to administer all or parts of their admission arrangements. Where they do so, however, the responsibility for compliance with the Code remains with the admission authority, in this case the trust. Either the admission authority must ensure that it describes clearly how distance is measured in its arrangements and ensures that its contractor does what is described, or the admission authority accept the way the contractor proposes to measure distance and sets this out clearly in its arrangements.

26. In addition to the specific requirements of paragraph 1.13 of the Code concerning the measurement of distance, paragraph 14 of the Code requires: “admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.” Paragraph 1.8 requires “Oversubscription criteria **must be** reasonable, clear, objective, [and] procedurally fair”. I find that the arrangements do not meet these requirements.

27. Paragraph 3.1 of the Code says “The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Adjudicator’s decision within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator.” These arrangements were not referred to me until the end of the summer term and during the Covid-19 pandemic which required additional restrictions in this part of England. This may explain why the local authority was unable to respond to my enquiries until 18 September 2020, six weeks before the deadline for parents to apply for secondary school places for 2021. The admission authority is also planning a review of the arrangements in the autumn term. For these

reasons, and to minimise the risks arising from making changes during the operation of the arrangements I have decided to set the date of 28 February 2021 for the admission authority to revise its arrangements.

## Summary of Findings

28. For the reasons set out above, the method of measuring home to school distance set out in the arrangements does not meet the requirements of the Code. Two parts of the arrangements use obsolete terms and are therefore unclear and the requirements of two paragraphs of the Code are omitted from the arrangements.

## Determination

29. I have considered the admission arrangements for September 2021 for Wardle Academy, Rochdale in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the measurement of home to school distance, the arrangements do not conform with the requirements. I have also found that 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. I require the admission authority to revise its admission arrangements by 28 February 2021.

Dated: 23 September 2020

Signed:

Schools Adjudicator: Phil Whiffing