



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR1778**

**Admission authority: Leeds City Council for Allerton High School**

**Date of decision: 28 September 2020**

### Determination

**In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Leeds City Council for Allerton High School for September 2021.**

**I determine that the catchment area will be divided as shown on the map attached to this determination with children in “Priority Zone 1” having greater priority for places at the school than those in “Priority Zone 2”.**

**I have also considered the arrangements under section 88I(5) of the Act and find that they do not conform with requirements relating to admission arrangements in the way 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 this determination.**

### The referral

1. Leeds City Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for Allerton High School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged 11 to 18 in Leeds.
2. The proposed variation is to divide the catchment area into two parts with children living in one part receiving higher priority for a place at the school, than children living in the other.

## Jurisdiction

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that: “where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

4. I am satisfied that the proposed variation is within my jurisdiction.

5. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

## Procedure

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

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

- a. the referral from the local authority dated 3 September 2020, supporting documents and the local authority’s responses to my enquiries;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school has been consulted;
- d. a map showing the location of the school and other relevant schools;
- e. documents notifying the appropriate bodies about the proposed variation; and
- f. comments received on the proposed variation from the governing board of the school.

## Consideration of the arrangements

8. When I considered the arrangements as a whole, it appeared to me that the priority given to looked after and previously looked after children also included priority for children

who do not fall within the definition of looked after and previously looked after children and therefore did not conform with the requirements of the Code.

## The proposed variation

9. Paragraph 3.6 of the Code says that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or in certain other limited and specified cases. I will consider below whether the variation requested is justified by the change in circumstances.

10. Paragraph 3.6 of the Code also requires that appropriate bodies in the relevant area are notified of a proposed variation. The local authority has provided me with a copy of its notification on the proposed variation and the list of schools and other bodies to which it was sent. I am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

11. In addition to the requirement to notify prescribed bodies, the local authority undertook an online survey between 17 July 2020 and 9 August 2020 on the details of the proposal. I am satisfied that the correct procedures have been followed, indeed undertaking the online survey exceeds those requirements.

12. The proposed variation is to divide the school's catchment area into two parts with children living in the northern part being given higher priority than children in the southern part. Appendix 1 is a map showing the areas in question.

## Consideration of proposed variation

13. The school is situated on the northern edge of Leeds, the published admission number (PAN) is 220. After looked after and previously looked after children, children with needs which can only be met at this school and siblings of children already on roll, priority for admission is given to children who live in the school's catchment area. Within the catchment area, priority is given to those living closest to the school measured in a straight line. The school is at the southern end of its catchment area which is an elongated heptagon under two miles wide at its southern end and over three miles wide at the northern end; it is about four and a half miles from north to south extending beyond the local authority boundary. The population is concentrated in the southern quarter of the catchment area, the northern part is rural containing a few small villages. The proposed variation draws a line across the southern, populous, part of the catchment area to create two "Priority Zones". "Priority Zone 1" consists of the northern, rural, part of the catchment area and about half of the urban area while "Priority Zone 2" consists of the remainder of the urban area. The proposed variation gives children living in "Priority Zone 1" greater priority for a place than those living in "Priority Zone 2".

14. The local authority said that the request for a variation stems from the outcome of the allocation of school places for September 2020 in March 2020. There were eight children who lived in the north of the catchment area who could not be offered places at the school in that year group because they lived farther away than the other children living in the catchment area. These children lived even farther from neighbouring schools in the north of Leeds and where those schools were able to offer places to out of catchment area children, the point of oversubscription was reached much closer to those schools than where children from the northern part of the catchment area lived. Consequently, children from the northern part of the catchment area could only find places at schools much farther from their homes.

15. The local authority says that it had anticipated growth in the local population, but for admission in 2020 there were 23 more children living in the catchment area above the number expected and more siblings applying than in previous years (siblings have greater priority than catchment area children, no matter where they live). The local authority is aware that the number of children living in the catchment area due to start at secondary school in 2021 is larger than it was in 2020 and is concerned that a greater number of children from the northern part of the catchment area could find that they cannot be offered a place at the school or another school in the north of Leeds, resulting in them having to be offered schools much farther away from their homes.

16. The idea behind the proposed variation is that children living in the more distant parts of the catchment area, with longer journeys to other schools would have greater priority for a place at the school than children living in the southern part. If a child living in the southern "Priority Zone 2" could not be offered a place at the school, they would have higher priority than children from the north for places at neighbouring schools as they live closer to them. Also, if they could not secure a place at a neighbouring school, distances to other schools in the city where places were available will be less.

17. The local authority told me that one of the neighbouring schools, which is a foundation school, was considering changing its catchment area to include part of "Priority Zone 2" to help children from that area find a place at a school close to their home. There is now little time available for that school to request and receive approval of a variation to its admission arrangements for 2021 before the closing date for applications. I have therefore not taken this possibility into account.

18. I was told that there were 169 children in the 2021 admission year group known to be living in "Priority Zone 1" and 95 in "Priority Zone 2". The local authority considered that any child living in "Priority Zone 2" would be able to obtain a place at one of four neighbouring schools if they could not be offered a place at the school.

19. A statement from the governing board of the school was provided with the application for this variation. This said that the governing board "reluctantly supports" the proposal but saw it as a temporary solution to the problem. The governing board considered that the school, which has been found by Ofsted to be an "outstanding" school should be expanded so that it can accommodate all children living in its catchment area

who would like to go there. It reported that families move into the catchment area so they can attend the school. The governing board reiterated the view that the school should be expanded in response to my invitation to comment further on the application.

20. Paragraph 1.14 of the Code requires that catchment areas are reasonable and clearly defined. When I examined the maps of the existing catchment area and the proposed division of it I noted that while the proposed dividing line followed major roads and other geographical features, the boundary of the whole catchment area, which this proposal does not change, was made from seven straight lines. These lines cut across major roads and residential streets and in places appeared to cut through houses. As a result, children could find their journey to their catchment area school required them to cross a dual carriage way and children living at the end of a cul-de-sac were not in the same catchment area as their neighbours but had to walk past their houses on the way to a different school.

21. I asked the local authority what the rationale was for the catchment area. I was told that the catchment area was defined by the school being the nearest to a child's home in a straight line. Looking at a map of local schools I can see that the straight lines forming the edge of the catchment area are lines running equidistant between the school and neighbouring schools. The two nearby faith schools are not taken into account in this construction. I was also told that where a line passes through a house (where a house is equidistant from two schools), parents can look up which catchment area the house falls into online.

22. It seems to me that if other factors had been taken into account when defining the catchment area, in particular the match between the population of the catchment area and the school's capacity, the problem which this variation is intended to address may not have arisen. While, as the governing board pointed out, living in a catchment area cannot be a guarantee of a place at the school, parents do have a high expectation that it will be unusual for catchment area children not to be able to secure a place at the school. One reason for using catchment areas in admission arrangements is to ensure that children living in more remote areas have priority for a school. With the current arrangements, it will always be the catchment area children living farthest from the school, in the north, who will not be able to be offered a place. Those living closer to the school will almost certainly be able to get a place and these are the children for whom other schools are more accessible.

23. Variations to admission arrangements are intended to address major changes in circumstances which have occurred since the arrangements were determined. The 2021 arrangements were determined by the local authority on 12 February 2020. I made enquiries of the local authority about the information it had before that date which could have enabled it to address the problem in advance in this or another way. I was told that in January 2019 the school census showed that there were 220 children living in the catchment area due to start school secondary school in September 2020. By October 2019 this number had increased to 222. In March 2020 a total of 245 children living in the catchment area were offered places at secondary schools for September 2020. This increase may be as a result of families moving into the catchment area with the aim of

securing a place at the school as described by the governing board. The change in circumstances which appears to have taken place is that the local authority has recognised that the information it has on the number of primary school children living in the catchment area may be an underestimate and not show the distribution of the children across the catchment area accurately.

24. To have made a change to the admission arrangements for 2021 which would address this issue, the local authority would have been required to consult between October 2019 and January 2020. While it should have known that the 2021 year group was bigger than the 2020 year group, it would not have known about the potential error in the data in time to consult.

25. The solution favoured by the governing board would be to expand the school. While it can be possible to provide temporary accommodation at a school within a short space of time in an emergency, the construction of permanent buildings requires a longer lead-in time and could be thwarted by planning constraints. Furthermore, the funding of new school places by the Department for Education (DfE) is not based on individual school catchment areas. It is based on larger planning areas and if, as the local authority says, there are sufficient places in the planning area containing the school, funding of new places will not be a priority and difficult to justify.

26. Currently, the local authority knows of 264 children living in the catchment area due to start school in September 2021. While some of these children may want places at other schools, for example one of the faith-schools in the city, most will prefer a place at their catchment area school and an unknown number siblings will take priority over them. It seems to me highly likely that the school will be oversubscribed in 2021 from within the catchment area. I asked the local authority to provide evidence that if a child living in "Priority Zone 2" could not be placed at the school, they would be likely to get a place at one of the four neighbouring schools if they applied to them.

27. In response I was told that none of these neighbouring schools were oversubscribed from within their catchment areas. I have plotted these schools on a map alongside the priority zones, marking the distance at which out of catchment oversubscription occurred in 2020. One school was not oversubscribed at all and the entire "Priority Zone 2" falls within two and a half miles of it. All of "Priority Zone 2" lies closer to one or two of the other three schools than the cut off distance for admission of out of catchment children to those schools in 2020. I am satisfied that children living in "Priority Zone 2" would be likely to get a place at another school within an acceptable distance of their homes if they were unable to be offered a place at the school as a result of the proposed variation.

28. Because the governing board only supports this variation as a temporary measure, I have considered the longer-term implications of approving it. Catchment areas are part of a school's admission arrangements which must be determined every year and apply to one specific year. Before changing their arrangements, admission authorities must consult on those proposed changes, in effect (although they require annual determination),

arrangements continue as they are unless the processes laid out in the Code to change them are followed. Therefore, if I approve this variation, the change becomes part of the school's arrangements for 2021 and unless the local authority consults on and determines something different, the division of the catchment area will continue into future years (for up to seven years when consultation would be required by the Code). Data provided by the local authority suggests that there will be a similar level of demand for places from within the catchment area until 2024 and the local authority has said that if I approve this variation it would want to leave it in place. If I do not approve the variation, then the local authority has said it would consult on this or a similar proposal in the autumn for implementation in 2022. If the governing board, or anyone else, is not happy with the arrangements which the local authority determine for 2022, then the option of making an objection is available from the date on which they are determined until 15 May 2021.

29. Paragraph 3.6 of the Code only requires admission authorities to notify a defined list of appropriate bodies of proposed variations, not to consult them. This is because the variation process is designed for emergency situations, such as building failure, where action is required quickly and there is no time for public consultation. I have noted that the online survey had 580 responses and led to the proposal being adjusted before being submitted for my approval. These changes reflected comments from the public and Indices of Multiple Deprivation and in my view improved the proposal by the inclusion of the triangular area immediately to the south of the school bordered by the A6120 ring road and King Lane around Lingfield Road.

30. Having considered the factors set out above I have concluded that the proposed variation will address the problem described. I therefore approve the division of the catchment area into the two parts as shown on the attached map at appendix 1 and the change to the third oversubscription criterion to read:

“3. Children living in the catchment area

a) those within Zone 1

b) those within Zone 2.”

## **Priority for looked after and previously looked after children**

31. The first oversubscription criterion in the arrangements is:

“Priority 1 a) Children in public care or fostered under arrangements made by a local authority or children previously looked after by a Local Authority. (see note 1)”

Note 1 defines a looked after child and then defines a previously looked after child as a child “who was previously looked after but ceased to be so because they were adopted or

became subject to a Special Guardianship order or a Child Arrangements order, or who has been in state care outside of England and ceased to be so as a result of being adopted”.

32. Paragraph 1.7 of the Code says: “All schools must have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children. Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order).” Further detail is provided in footnotes to this paragraph. The definition of previously looked after children in the Code does not include a child “who has been in state care outside of England and ceased to be so as a result of being adopted”.

33. On 4 December 2017, the Minister of State wrote to admission authorities encouraging them to give children who were previously in care outside of England second priority in oversubscription criteria and the DfE is currently consulting on changing the Code to include such children in the definition of previously looked after children. Until any changes are made to the Code these children must not be given the same priority in admission arrangements as those defined in paragraph 1.7.

34. When I raised this matter with the local authority, it recognised that under the current Code children adopted from state care outside of England must be separated from looked after children as defined in the Code and given lower priority. The local authority still wished to give such children second highest priority and was concerned that separating these children out would lead to relabelling other oversubscription criteria which could affect parents’ understanding of them. The local authority is permitted to give such children second priority, however, arrangements must be clear. If instead of simply labelling the criteria as 1, 2, 3, 4, ... it chooses to label them 1(a)(i), 1(a)(ii), 1b, 2, ... as it has proposed to me, it may wish to consider other ways to help parents understand the order in which the oversubscription criteria will be applied so that the priority given to looked after and previously looked after children in these arrangements does conform with the requirements of paragraph 1.7 of the Code.

## Summary

35. In my view, the problem which this variation is intended to address arises because the catchment area is poorly designed being based on a single factor and does not take into account the match between the population of the catchment area and the capacity of the school or the accessibility of other schools. It is unfortunate that the local authority did not identify the problem early enough to consult and determine this or another means of addressing it within the normal time frame for determining admission arrangements. However, there appears to be a growing group of children living in the north of the catchment area who, because of the arrangements as they stand, are unlikely to be offered places at the school. These children are further disadvantaged because they live even farther from other schools and consequently have low priority for places at them and can end up having much longer journeys to school than other children. The children who, as a



result of the proposed change, would receive lower priority for places live nearer to other schools and so would have greater priority for places at them and shorter journeys to them. I therefore approve this variation.

34. I find that giving the same priority in these arrangements to children who have “been in state care outside of England and ceased to be so as a result of being adopted” as to looked after and previously looked after children as defined in the Code does not conform with the requirements of paragraph 1.7 of the Code.

## **Determination**

36. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Leeds City Council for Allerton High School for September 2021.

37. I determine that the catchment area will be divided as shown on the map attached to this determination with children in “Priority Zone 1” having greater priority for places at the school than those in “Priority Zone 2”.

38. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the way set out in this determination.

39. 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 this determination.

Dated: 28 September 2020

Signed:

Schools Adjudicator: Phil Whiffing

