



Determination

Case reference:	ADA3840
Objector:	A parent
Admission authority:	Haberdashers' Adams' Federation Trust for Haberdashers' Adams
Date of decision:	5 August 2021

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 2022 determined by Haberdashers' Adams' Federation Trust for Haberdashers' Adams, Newport, Telford and Wrekin.

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 a parent (the objector), about the admission arrangements (the arrangements) for Haberdashers' Adams (the school), an academy school for boys aged 11 to 18 and girls aged 16 to 18, for September 2022. The objection is to the oversubscription criterion that names 34 feeder schools.
2. The local authority (the LA) for the area in which the school is located is Telford and Wrekin Council. The LA is a party to this objection. Other parties to the objection are Haberdashers' Adams' Federation Trust (the trust), the school 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 13 May 2021. The objector has asked to have his identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of his name and address to me. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

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

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

- a. a copy of the minutes of the meeting of the trust at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 13 May 2021, other material submitted by the objector and subsequent correspondence;
- d. the school's response to the objection and subsequent correspondence;
- e. the local authority's response to the objection;
- f. a map of the area identifying relevant schools; and
- g. information available on the websites of the local authority, the school and the Department for Education.

The arrangements

6. The school is a wholly selective grammar school. It has a Published Admission Number (PAN) for admission to year 7 (Y7) in September 2022 of 150, which includes 15 places for boarding students. The oversubscription criteria for "day places" are summarised below. Applicants must have achieved "the required standard" in the entrance test unless otherwise stated.

- (i) Looked after children and previously looked after children.

- (ii) “Boys in receipt of Pupil Premium, including children of service families... The required academic standard will be 5% lower for Pupil Premium boys.”
- (iii) Boys who attend a feeder school.
- (iv) Other boys who achieve the required standard, ranked by their score in the entrance test. Where scores are equal, priority is given on the basis of distance from the school.

The Objection

7. The objector argues that the third oversubscription criterion, which prioritises children who attend one of 34 named feeder schools, is in breach of paragraph 1.15 of the Code, which states that, “The selection of a feeder school or schools as an oversubscription criterion must be transparent and made on reasonable grounds.” He also cites paragraph 1.8 of the Code, which stipulates that “Oversubscription criteria **must** be reasonable, clear [and] and objective.” Furthermore, he says that the feeder school criterion is unfair as it excludes a small number of primary schools in the LA area. It is a requirement of the Code, set out in paragraph 14, that “admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair.”

Other Matters

8. Having considered the arrangements as a whole it appeared to me that the following matters did not conform with the requirements relating to admissions:

- a) the arrangements do not make clear that children with an Education, Health and Care plan who reach the required academic standard will be admitted (paragraph 1.6 of the Code);
- b) the first oversubscription criterion makes reference to “residence orders” in respect of previously looked after children (residence orders were replaced by child arrangements orders in 2014);
- c) the second oversubscription criterion does not make clear that it is boys who are eligible for the pupil premium (not “in receipt of” the premium, which is paid to the school) and children eligible for the service premium (rather than “children of service families”) who are given priority, as permitted by paragraph 1.39A of the Code;
- d) the second criterion also does not make clear what is meant by “The required academic standard will be 5% lower for Pupil Premium boys.” It is not clear whether a reduction is applied as a percentage of the total marks available or of the pass mark. It is not clear whether this reduction also applies to children eligible for the service premium;

- e) it is not made clear how places are allocated if there are more boys eligible under the third oversubscription criterion than places available;
- f) there is no reference to an alternative date for boys unable for a good reason to take the entrance test on 20 September. This appears to be unfair;
- g) the arrangements do not set out clearly how distance from the school will be measured, as required by paragraph 1:13 of the Code;
- h) the arrangements make reference to the consideration of applications of children outside their normal age group but do not make clear the process for requesting admission, as required by paragraph 2.17 of the Code; and
- i) there are no oversubscription criteria for admission into the sixth form, as required by paragraphs 1.6 and 1.7 of the Code.

Background

9. The school is in Newport, a market town in the historic county of Shropshire, but, for local government purposes, part of the unitary authority of Telford and Wrekin. Newport is located at the north-eastern edge of the local authority area, several miles north of Telford, which is a large town with some areas of social deprivation.

10. Following a successful bid to the government's Selective School Expansion Fund (SSEF), the school was able to increase its PAN for day places from 105 to 135, with effect for admission to Y7 in September 2021. A key purpose of the fund was to achieve a greater proportion of children from areas of deprivation, specifically those eligible for pupil premium funding, applying for and attending selective schools. The school's arrangements for admission in September 2021 were different to those for previous years, in order to give effect to the government's expectations of schools successful in obtaining SSEF funding. Prior to 2021, the school gave some priority to children in what it described as its "attendance area." In fact, this was not a geographical area but rather a group of nine feeder schools, two of which were independent schools that had to be removed from the list, as their inclusion contravened the prohibition in paragraph 1.9 (l) on naming such schools as feeders.

Consideration of Case

11. The objector advances a number of arguments in support of his view that the oversubscription criterion relating to feeder schools is not "reasonable, clear and objective" as required by paragraph 1.8 of the Code and that it contravenes other requirements. He begins by saying that there is no explanation in the arrangements or elsewhere on the school's website of the basis for the selection of the 34 feeder schools and the exclusion of the other 13 primary schools in the Telford and Wrekin LA areas. The arrangements, he says, are therefore not transparent, as required by paragraph 1.15 of the Code. In the

interests of preciseness, I should point out that there are also three junior schools in the LA area, so 34 of 50 schools are included as feeders.

12. The objector continues by referring to an article in the local press, which he says does provide “evidence to explain the selection of feeder schools”. In the article, the headmaster of the school “is cited as suggesting that the selection has been made on the basis of the use of a methodology for “identifying the Income Deprivation Affecting Children Index (IDACI), which measures deprivation relating to low income””. The objector contends that this approach is flawed, for two reasons. First, he says that it is not the case that all children who live in an area considered deprived will attend a school in that area. Those children who live in a deprived area as measured by IDACI but attend a school outside that area will not benefit from the priority given under the feeder school criterion. I note that this will only be relevant if the child attends one of the schools that is not a feeder school.

13. Second, the objector believes that the approach outlined by the headmaster has not been applied consistently. While a large number of the 34 schools named as feeders are located in those areas judged ‘most deprived’ by IDACI (in the first or second decile of deprivation), there are four that are in areas judged amongst the ‘least deprived’ (in the ninth decile of deprivation). He says that this inconsistency means that the arrangements do not satisfy the Code’s requirement, also in paragraph 1.15, that the selection of feeder schools **must** be made “on reasonable grounds.”

14. The objector concludes by making the inference that “the Arrangements have been constructed with the deliberate intention of excluding one-third of the state primary schools in the Borough.” Pupils attending these schools, regardless of where they live, have a lower priority for a place at the school, which the objector variously describes as “unfair”, “unjust” and “unreasonable”, in contravention of the Code.

15. On behalf of the trust, the headmaster responded to my request to explain how the 34 feeder schools had been selected. He says that the selection was made in conjunction with the LA and that, effectively, it consists of two groups of schools. The first group consists of the seven state funded primary schools in the Newport area, which had previously been feeders under the school’s admission arrangements in place prior to 2021. These schools “did not come under any deprivation measure.” The second group was added to the list of feeder schools from 2021. The headmaster says that it “was clearly and publicly intended to widen our attendance area to include the most deprived areas of Telford.”

16. The headmaster says that IDACI index was used to “plot deprivation” and it was decided to concentrate on 11 of the 15 “areas in the Borough [that] are in the 10% most deprived nationally.” The rationale for the selection was that,

“We wanted our proposals to be targeting schools within the new Attendance Area where the highest proportion of Pupil Premium students attend.”

The reason why schools in four of the 15 areas were not selected was the result of a recommendation of the LA that there were certain primary schools that already had a close

relationship with a secondary school. Particular mention is made of another school in the trust:

“There are a number of schools in South Telford not on the list and this is because we work in a Federation with Abraham Darby Academy as we are both Haberdashers schools. As Abraham Darby serve a very disadvantaged area in the south of Telford we felt that for us to focus on north and central Telford would allow them to continue the excellent work they are doing in their own area.”

17. I propose to consider the objection and the response of the school by reference to the three key ways in which the objector believes the arrangements fail to meet the requirements of the Code, that is, that they are not transparent, not reasonable and not fair.

Are the arrangements not transparent?

18. The objector says that the response of the headmaster “does not spell out the exact basis for designating a particular school which could then be audited and verified externally.” He concludes,

“I believe that this inability to articulate the precise rationale for feeder school designation fails the test of transparency as required under the Code.”

19. The Code requires the selection of feeder schools to be ‘transparent’, but does not define the term. I do not consider that it carries quite the weight that the objector ascribes to it. In order for the selection of feeder schools to be transparent, those schools must be clearly named in the arrangements and there should be no doubt as to which schools are feeder schools and, therefore, which are not. The Code does not specifically demand that the rationale for the selection of feeder schools is set out in the arrangements themselves or in any other public document and I do not believe the word ‘transparent’ can be taken to mean that this is a requirement. The arrangements make crystal clear which schools have been selected as feeder schools. This meets the stipulation that their selection is transparent. I do not uphold the objection on this ground.

Were the feeder schools selected on reasonable grounds?

20. The second requirement in the final sentence of paragraph 1.15 of the Code is that the selection of feeder schools is “made on reasonable grounds.” This, of course, does mean that the admission authority must be able to give reasons for its selection of feeder schools. In order to be considered ‘reasonable’, those reasons should not be irrational or illogical.

21. The headmaster, on behalf of the trust, explains that, although there is only one oversubscription criterion giving priority for attendance at a feeder school, there are two groups of schools within those that are listed, and the reasons for their selection vary between the two groups. The seven schools in the Newport area were already feeder schools when the arrangements were significantly revised for admission in September 2021 and had been so, according to the objector, since 2016. The four schools that the objector

identified as being in the ninth decile of deprivation are in this group. I consider that their geographical proximity to the school and their historic links, even if these have been sustained over only a relatively short period of time, provide legitimate reasons for their naming as feeder schools.

22. The second group of schools comprises those that serve areas of deprivation in Telford, with the IDACI data used, in conjunction with the LA, to identify those that should be included. Such an approach is consistent with the purpose of the SSEF. In fact, the trust has gone further than giving priority solely to pupils eligible for the pupil premium. As outlined above, any boy who is eligible for the pupil premium has priority under the second oversubscription criterion and need achieve a slightly lower score than other boys seeking a place. Any boy attending one of the named schools has priority under the third oversubscription criterion. This is irrespective of their family's circumstances and, given that boys entitled to the pupil premium will have been admitted under the higher criterion two, it will be the case that boys admitted under criterion three are not entitled to the pupil premium.

23. The objector argues that there is inconsistency in the identification of schools serving areas of deprivation. However, the headmaster has given reasons why some schools serving less deprived areas have been selected as feeder schools and, conversely, why other schools that are located in deprived areas have not been selected. In the former case, these schools are those in the Newport area (and are therefore in the first group of feeders) and in the latter, the schools not selected as feeders have established close links with other secondary schools, notably Abraham Darby Academy, which is part of the same multi-academy trust as Haberdashers' Adams.

24. It is certainly possible to mount valid arguments against the reasons given by the headmaster. The objector points out that there is not an exact match between the children on the roll of a school and those who live in its area:

"A number of schools in the Borough are known to attract children from beyond their catchment area boundaries. It is therefore likely that there will be a number of children, who live in areas considered deprived, who will be unable to benefit from Criterion 3 of the Arrangements because they attend a school out of their area, and one which is excluded from the list of 34."

He is also critical of the exclusion of some primary schools in deprived parts of Telford from the list of feeder schools because of their existing strong links with a local school. These secondary schools, he says,

"are comprehensive schools and in this and other respects are quite unlike Haberdashers' Adams School in terms of their results and the opportunities they offer to prospective pupils."

25. Both of these arguments have merit but they are not, in my view, sufficiently compelling to mean that the reasons given by the school for selecting its feeder schools should be characterised as illogical or irrational. I consider that the school, with the advice

and support of the LA, has made a genuine attempt to identify feeder schools from which to give pupils in attendance priority for a place, which is consistent with the purposes of the SSEF, whilst not seeking to disrupt other established relationships and patterns of transfer in Telford. The selection of feeder schools has therefore been made on reasonable grounds and I do not uphold the part of the objection that argues that the arrangements do not comply with paragraph 1.15 of the Code.

Are the arrangements unreasonable or unfair in their effect?

26. Table One shows how the places at the school were allocated for admission in September 2021, the first year to which the revised arrangements applied, with the increased PAN.

Table One: Allocation of places at the school for admission in September 2021

Oversubscription criterion	Number of boys allocated places
Looked after children and previously looked after children	0
Boys eligible for the pupil premium or the service premium	5
Boys attending a feeder school	25 (17 from Newport area schools)
Other boys achieving the required standard	116 (from 66 different schools)

27. As can be seen from the figures, places were allocated to only eight boys who attended one of the 27 feeder schools in Telford that were included in the arrangements for the first time for admission in September 2021. Indeed, the total of boys allocated places under the third oversubscription criterion, including those who attended schools in the Newport area that were already feeder schools (25) was lower than the increase in PAN as a result of the school's successful SSEF application (30). The effect of the addition of the Telford feeder schools in the third criterion was, therefore, extremely limited and, in my view, not in any way unreasonable. I do not consider that the criterion breaches paragraph 1.8 of the Code, which requires oversubscription criteria to be reasonable.

28. The objector argues that 2021 cannot be considered a typical year because of "the reduced opportunities for the school to engage in 'outreach activities' in respect of the designated schools." In fact, the ongoing impact of the pandemic may well mean that these activities relating to admissions in 2022 will have been similarly affected. My jurisdiction extends only to the arrangements for 2022 and their likely effect. I find it difficult to believe that the pattern of admissions in 2022 will be fundamentally different from that shown in Table One.

29. The objector also believes that the arrangements do not meet the Code's requirement for fairness. Unfairness occurs when the effect of admission arrangements is to put a group at a substantial disadvantage that is not justified or outweighed by the reasons for giving priority to other groups. The objector says,

“It is particularly unfair to pupils and parents at primary schools within the borough which also ‘do not come under any deprivation measure’. They are effectively being subjected to a detriment as they do not enjoy the same preferred status as those in comparable situations.”

30. Clearly, the addition of schools in Telford as feeder schools does potentially mean that boys who do not attend a feeder school are at a relative disadvantage in terms of priority for a place at the school. However, that disadvantage appears to me to be likely to be limited and is justified by the school’s attempts to increase the number of boys it admits from areas of deprivation. I do not therefore regard the arrangements for admission in September 2022 to be unfair. I would, nonetheless, expect the trust to monitor closely the effect of the admission arrangements annually and, if necessary, to consider changes if there is a possibility of unfairness occurring, which might be the case if the number of boys admitted from schools that are not feeder schools were to reduce significantly.

31. I do not uphold the objection on the ground that the effect of the arrangements is either unreasonable or unfair.

Other Matters

32. The headmaster, on behalf of the trust, undertook to make the necessary amendments, clarifications or additions in respect of the other ways in which the arrangements do not comply with the requirements relating to admissions, listed in paragraph 8 above, as follows:

(a) (b) and (c) – the correct wording will be put in place.

(d) – the arrangements will state that all applicants qualifying under the second oversubscription criterion “will need to achieve a qualifying score no lower than 5% below the general qualifying score”.

(e) – the arrangements will make clear that, “in the unlikely event of there being more boys eligible they would be allocated on the basis of their test scores”.

(f) – the letter to parents of applicants explains that an alternative date is available for boys unable to attend on the day of the test.

(g) – the arrangements will specify how distances will be measured by a straight line method.

(h) and (i) – appropriate additions to the arrangements will be made.

33. The headmaster expressed concern about being required to make changes to the arrangements for admission in September 2022, bearing in mind that the entrance test is scheduled for September 2021. I do not consider that the revisions listed above impact directly on the test itself. They need to be put in place before the closing date for parents to submit the Common Application Form to the local authority. I see no reason not to require

the admission authority to revise its arrangements within two months of the date of the determination, as specified in the Code.

Summary of Findings

34. The arrangements give priority to boys attending 34 feeder schools. These schools are clearly listed. The reasons for their selection are twofold: seven are located close to the school and the remainder serve areas of deprivation in the LA area. Some primary schools in areas of deprivation are not included as they have close links with other secondary schools. I consider the selection of feeder schools to be transparent and made on reasonable grounds. A small proportion of places was allocated to children attending feeder schools in areas of deprivation in 2021. This did not cause a substantial disadvantage to other applicants and no unfairness was created. I do not uphold the objection. There are other matters that do not comply with the requirements relating to admissions.

Determination

35. 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 2022 determined by Haberdashers' Adams' Federation Trust for Haberdashers' Adams, Newport, Telford and Wrekin.

36. 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.

37. 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: 5 August 2021

Signed:

Schools Adjudicator: Peter Goringe