



Office of
the Schools
Adjudicator

Determination

Case reference: REF3891

Referrer: A parent

Admission authority: Lionheart Educational Trust for Beauchamp College,
Leicestershire

Date of decision: 29 April 2022

Determination

We have considered the admission arrangements for September 2022 for Beauchamp College, Leicestershire in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the selection of feeder schools the arrangements do not conform with the requirements. We 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 adjudicators' decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise the selection of feeder schools by 28 February 2023 and the other aspects of its admission arrangements within two months of the date of this determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (SSFA), an objection has been referred to the adjudicator by a parent (the referrer) about the admission arrangements (the arrangements) for Beauchamp College (Beauchamp), for September 2022. The date of the objection was 1 November 2021.
2. The referral relates to the selection of feeder schools named as such in the arrangements. It raises a concern that the omission of St Thomas More Catholic Primary School (St Thomas More) from the list of feeder schools is unreasonable, was made in breach of the admission authority's responsibilities under the Public Sector Equality Duty (PSED) and results in unlawful indirect discrimination on the grounds of religion or belief

against children attending that primary school. The referrer made similar referrals to the 2022 admission arrangements for two other secondary schools in the area, Manor High School (Manor) and Gartree High School (Gartree). These are considered in determinations REF3892 and REF3893 respectively.

3. When we read the arrangements, we considered that the arrangements did not or may not conform with the requirements for admission arrangements in the other ways which are set out below.

4. The parties to the case are Lionheart Educational Trust (the trust) which is the academy trust and the admission authority for Beauchamp, the school's governing board, Leicestershire County Council (Leicestershire), Leicester City Council (Leicester) and the referrer.

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 SSFA by the trust, which is the admission authority for the school, on that basis.

6. The referrer submitted an objection to these determined arrangements on 1 November 2021. The School Admissions Code (the Code) requires objections to admission arrangements for 2022 to be made to the Office of the Schools Adjudicator (OSA) by 15 May 2021. As this deadline was missed, the case cannot be treated as an objection. However, section 88I of the SSFA gives the adjudicator the power to consider whether arrangements brought to their attention conform with the requirements relating to admission arrangements. As permitted by regulations under the SSFA, two adjudicators, Phil Whiffing and Jane Kilgannon, were appointed to consider this case and those concerning Manor and Gartree, with Phil Whiffing as lead adjudicator.

Procedure

7. In considering this matter we have had regard to all relevant legislation and the Code.

8. The documents we have considered in reaching our decision include:

- a) the referrer's form of objection dated 1 November 2021, accompanying documents and subsequent correspondence;
- b) confirmation that the arrangements had been determined by the trust;
- c) a copy of the determined arrangements;

- d) comments from the trust and governing board on the matters raised and subsequent correspondence;
- e) comments and information provided by Leicestershire and Leicester;
- f) maps of the area identifying relevant schools;
- g) the website published by Beauchamp;
- h) determination ADA3764 published on 25 June 2021;
- i) data published online by the Department for Education (DfE); and
- j) 'The Equality Act 2010 and schools' (DfE publication, May 2014) and 'Technical Guidance for Schools in England' (Equality and Human Rights Commission publication, July 2014).

The Referral

9. The referral began by quoting Appendix 1 of the Code in which relevant legislation is set out, beginning with the Equality Act 2010 (EA). This includes provisions on indirect discrimination and the PSED. The referrer argued that because St Thomas More, a school with a Roman Catholic religious designation, was not included as a feeder school for Beauchamp, children attending St Thomas More were indirectly discriminated against on the basis of religion or belief and that the admission authority had not complied with its responsibilities under the PSED to consider whether its admission arrangements advance equality of opportunity between people who share a protected characteristic and those who do not share it.

10. The referral quoted paragraph 1.8 of the Code which states: "Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child. Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated." The referral also referred to paragraph 1.15 of the Code: "Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds."

Other Matters

11. Paragraph 14 of the Code says: "In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the

allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” It appeared to us that some aspects of the arrangements may not be clear and at one point possibly unfair.

12. In addition to this general requirement for arrangements to be clear, paragraph 1.8 of the Code specifically requires that oversubscription criteria are clear; paragraph 1.13 requires that how the home address will be determined is clear and paragraph 1.14 requires that any catchment area is clear. It appeared to us that these requirements may not be met.

Background

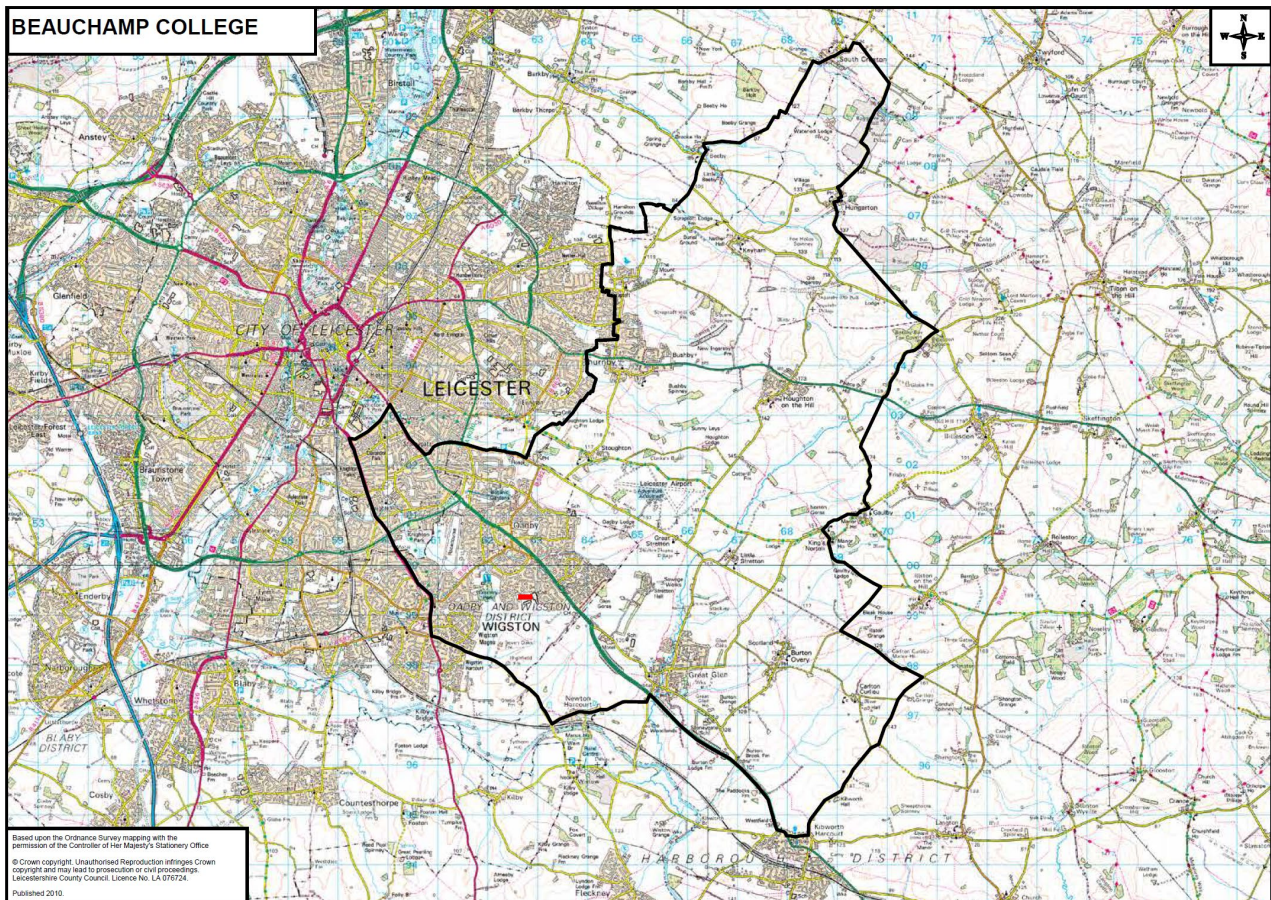
13. Beauchamp is a coeducational secondary school for children aged 11 to 19 and is situated in Oadby on the south-eastern edge of the conurbation of Leicester. It is, however, in the administrative area of Leicestershire, less than one and a half miles from the border between the two local authorities. It is adjacent to Gartree and less than a mile and a half from Manor.

14. The published admission number for the school (PAN) is 300 and the oversubscription criteria can be summarised as:

1. Looked after and previously looked after children
2. Children who attend a named “learning partner” primary school
3. Children who attend a “named feeder” primary school
4. Siblings
5. Children who live in the catchment area
6. Children of members of staff
7. Children living nearest to the school.

The arrangements explain that if it is necessary to prioritise within a criterion, subsequent criteria are used to decide priority with random allocation being used as a final tie-breaker. The example given in the arrangements is that siblings living in the catchment area would have priority over siblings who were children of members of staff. In the context of the matters under consideration in this case, it also means that a child attending a “learning partner” school who did not live in the catchment area would have priority over a child living in the catchment area who attended either a “named feeder” school or any primary school other than a learning partner school.

15. We will use the term “feeder school” to include either of the two groups of feeder schools in the arrangements and where necessary to differentiate between the two, the terms “learning partner” and “named feeder” will be used.



16. The catchment area is extensive and shown in the map above copied from the school’s website. It includes much of the south-eastern part of the Leicester conurbation including areas within the administrative area of Leicestershire as well as Leicester. The large rural area includes two larger settlements of Houghton on the Hill and Great Glen, both of which have Church of England primary schools in them. Houghton on the Hill Primary School is a learning partner school while St Cuthbert’s at Great Glen is a named feeder school.

17. Prior to a reorganisation of education in the area in 2017, the school was part of a three-tier system of schools. This can be visualised as a pyramid with several schools for children in Reception to Year 5 at the bottom feeding into two schools for Year 6 to Year 9 and then into one school for Year 10 to Year 13. Until that date Gartree and Manor were for Years 6 to 9 with transfer to Beauchamp in Year 10. Since 2017, all three secondary schools have admitted children into Year 7. Beauchamp is the only school of the three with a sixth form.

18. The arrangements for 2022 originally included St Thomas More as a “named feeder” primary school; however, this led to an objection to the OSA from the Roman Catholic Diocese of Nottingham. In ADA3764 published in June 2021 the adjudicator upheld the objection finding the arrangements did not conform with paragraph 1.15 of the Code because no reasonable grounds were provided for the selection of St Thomas More as a named feeder school.

Consideration of Case

Feeder schools

19. By definition, the oversubscription criteria in admission arrangements must give some children an advantage when applying for a school and disadvantage others. The Code requires that admission arrangements are reasonable, objective and fair. If arrangements give one group of children higher priority for a place at the school, then another group will be given lower priority.

20. Before considering the detail of this case, we have reflected on some of the issues which can arise for families who wish to apply to secondary schools where priority is given on the basis of where the child goes to primary school rather than where they live. It seems to us that there can be reasonable grounds for an admission authority to decide that priority based on feeder schools was the appropriate way to allocate places at the school. For example, in situations such as existed in this area before 2017, where the age at which children transferred between schools was different to that in neighbouring areas. In that situation, giving priority to children who attend schools where they cannot continue their education into the next year, say Year 6, over children who attend schools where they could continue into Year 6 would appear to be a reasonable approach. Another consideration would be whether the number of places available in each tier of education lines up and is sufficient for the area served otherwise a feeder school system may be considered unreasonable and so not conform with the Code.

21. There can, however, be negative consequences of a feeder school system for some families who would like a place at a school which uses feeder schools to prioritise admissions. Seven years before applying for a secondary school, parents may have placed their child at a primary school which is not a feeder school for their preferred secondary school. This may have been for valid reasons, for example, proximity to home or the availability of after-school care provision, the quality of academic or pastoral support or the wish to attend a school with a religious character. Some of these reasons are understandably more relevant when choosing a primary school as compared to choosing a secondary school. That decision may place such families at a disadvantage when it comes to the secondary school admission process where a feeder school system operates. There can also be issues for families moving into the area if, when they arrive, the feeder schools are all full. This would lead to those families having low priority for what may be the only secondary school which is easily accessible to them.

Fairness

22. From table 3 below, it would appear to us that a family moving into the area served by Beauchamp would be able to find a place for their child at one or more of the feeder schools because some of the feeder schools appear to have vacant places. Therefore, in practice, a family moving into the area would not be unfairly disadvantaged when applying for the school. We have also considered what disadvantage would accrue to a child who had been placed in a school which was not a feeder, such as St Thomas More, from the start of their primary school education. It is already the case that Beauchamp cannot admit all the children attending its feeder schools who would like to go there. We address this specific matter in detail later in this determination but note now that it is inescapable that if children attending schools like St Thomas More (that is, schools which are not currently feeder schools) had a higher priority for places, then children attending some of the other feeder schools would necessarily have lower priority and may be disadvantaged by it. It is the balance between the interests of these two groups of children that determines the fairness of this aspect of the arrangements.

23. While the referrer has undertaken some analysis based on her own postcode, it is not our role to consider one particular case, but the arrangements as a whole. We have used the postcode of St Thomas More as indicative of where its pupils live and have used the same approach for other primary schools. We acknowledge that as priority for admission to St Thomas More is mainly based on faith rather than residence, its pupils are likely to come from a wider radius than would be the case for a school serving a geographic community, but it seems to us that if parents consider the journey from their home to St Thomas More as acceptable for a child aged four or five, then that provides a reasonable starting point to consider journeys to secondary schools for a child aged 11 or more. We therefore consider that using the postcode of the school is a reasonable proxy for where its pupils live.

24. The DfE publishes online many details about schools on a public website called "Get Information About Schools" (GIAS). This lists 20 secondary schools within three miles of the post code for St Thomas More. Of these, some are single sex, some have a religious character, and one is a studio school admitting pupils at the age of 14 not 11. There remain 13 non-faith co-educational comprehensive schools within this radius. If the radius is reduced to two miles there are five non-faith co-educational comprehensive schools. All of these five give priority to children on the basis of where children live, not on the basis of which primary school they have attended.

25. We note the referrer's concern about the Ofsted judgements on secondary schools in the area. Parents do not have an entitlement to choose a place at a school in any particular Ofsted category, or for that matter, the school closest to their home, of a particular religious character or other specific characteristic. Parents express a preference for a school and if that school is oversubscribed, criteria are used to determine which children are offered places and which are not. Ofsted judgements on schools are not a matter which we have taken into consideration. They reflect the school at the time of inspection and change over time. However, in passing, we have noted that three of the five secondary schools within two miles of the postcode for St Thomas More are judged as "good".

26. The referrer also appears to consider it unfair for some children to have high priority for several schools when others may only have high priority for one. This is not unusual. Some children in urban areas live close to several schools, perhaps in the catchment area for one, possibly more and they may also meet the tests of membership and practice of a religion to have high priority for a faith school, or the necessary aptitude or ability to have high priority for a selective school. Other children may find that there is only one school within a manageable journey from their homes. In our view, it would be unfair if priority for those children with alternative schools near their homes led to those living in more remote areas not being able to be offered a place at the only school within a reasonable travelling distance of their home.

27. We have compared the number of secondary schools close to St Thomas More with those close to the postcode for feeder schools to Beauchamp and located in the rural area to the east of Leicester. If St Cuthbert's in Great Glen is used as a proxy for its pupils' addresses, there are only three secondary schools within a three miles radius, Beauchamp, Gartree and Manor, and no secondary schools within a two-mile radius. The other rural area can be represented by the postcode of Houghton on the Hill CE School which also has no secondary schools within two miles although there are four within three miles, including Manor, but not Beauchamp or Gartree. Of the three other schools, all of which are in Leicester, not Leicestershire, two base their priority for admission on where children live, and one is a faith school. Children attending Houghton on the Hill would have relatively low priority for them as there will be many children living in the urban areas nearer to those schools than in that village.

28. We are of the view that a child living in an area from where they can attend St Thomas More can more easily access other secondary schools than children living in the rural areas.

29. The referrer argued that the location of some of the 13 schools made the journeys to them during rush hour excessive and the oversubscription criteria of others reduced the number of (in her words) "realistic" options to two. Our internet searches show that to get from St Thomas More to Beauchamp at eight on a weekday morning takes between 10 and 18 minutes by car or 34 minutes by public transport. From St Thomas More to the farthest of the secondary schools within two miles it takes 8 to 16 minutes by car and 45 minutes by public transport. The two schools seen by the referrer as "realistic" are both within walking distance for a child of secondary school age. We note that local authorities are not required to provide home to school transport for children over the age of eight until the distance exceeds three miles to the nearest available school by the shortest safe walking route. Hence our identification of schools within a three-mile radius and focus on those within two.

30. The referrer questioned whether the journey times we had identified were realistic allowing for queuing and other factors. These times were not questioned by the other parties. They are not intended to be the actual time a child from any particular address would take for the journey, some would be shorter and others longer; however, these times give an indication of the journey times from the area to secondary schools which are not

necessarily the closest to their home. All children living in this part of Leicester would have a secondary school closer to their home than either of the two secondary schools for which we have looked at the journey times and would have high priority for admission to them based on where they lived, not the primary school attended.

31. We sought comments from Leicester on the availability of secondary school places at the secondary schools for children living in the area around St Thomas More. In response, Leicester provided data on the admission of children to schools in its administrative area. This showed that of the five schools within two miles of the postcode for St Thomas More, two were undersubscribed and all admitted children from outside their catchment area on the grounds of distance from the child's home to the school. Leicester expected that the pattern of admission to be similar in 2022 to that in 2021.

32. From the data provided by Leicester, we have concluded that a child living in the area around St Thomas More will live in the catchment area for at least one of the five secondary schools less than two miles away and it would be unlikely that they would not be offered a place at their catchment area school if they applied. It also appears to us that, because 279 children were admitted to those schools from outside their catchment areas in 2021, they may also be able to secure a place at a school which is not their catchment area school. These admissions are based on where the children live, not on any primary school attended.

33. We have found that a child attending St Thomas More would not face an unreasonable journey to another school if he or she was not able to attend Beauchamp by reason of St Thomas More not being a feeder school. We do not find that that the omission of St Thomas More from the list of feeder schools for Beauchamp causes the arrangements for Beauchamp to be in breach of the paragraph 14 requirement that arrangements be fair. Moreover, it appears to us that if St Thomas More was included in the current arrangements as a "named feeder" school, priority for places for children living in the rural part of the catchment area would be less likely to be offered places. This is because St Cuthbert's in Great Glen is not among the higher ranked "learning partner" schools and so children attending it would meet the same criterion as those at St Thomas More; this is the point at which oversubscription has occurred in two of the previous three years. Within this criterion priority is given to siblings, then children of members of staff, then those living in the catchment area and finally on the basis of proximity to Beauchamp with subsequent criteria being used to prioritise within each criterion. Therefore, a child attending St Thomas More and living in the Beauchamp catchment area would take priority over a St Cuthbert's child who also lived in the catchment area if the child attending St Thomas More lived closer to Beauchamp. The St Cuthbert's child has no alternative schools within three miles, yet the child at St Thomas More has five within two miles.

The feeder schools

34. There are two sets of feeder schools named in the arrangements. The first set of nine are described in the second oversubscription criterion as "Learning Partner Schools" and the other four in the third oversubscription criterion as "Named Feeder Primary

Schools". Details of these schools are tabulated below in alphabetical order. All information is taken from GIAS and is set out alphabetically.

Table 1

School	Learning Partner	Named Feeder	Local Authority	Distance from Beauchamp (miles)
Avenue Primary School	N	Y	Leicester	2.69
Brocks Hill Primary School	Y	N	Leicestershire	0.18
Brookside Primary School	Y	N	Leicestershire	1.17
Fernvale Primary School	Y	N	Leicestershire	3.6
Glenmere Primary School	Y	N	Leicestershire	0.75
Houghton on the Hill CE Primary School	Y	N	Leicestershire	3.75
Langmoor Primary School	Y	N	Leicestershire	0.85
Launde Primary School	Y	N	Leicestershire	0.81
Overdale Junior School	N	Y	Leicester	1.99
St Cuthbert's CE Primary School	N	Y	Leicestershire	2.05
St John The Baptist CE Primary School	N	Y	Leicester	2.73
St Luke's CE Primary School	Y	N	Leicestershire	3.08

Woodland Grange Primary School	Y	N	Leicestershire	0.65
--------------------------------	---	---	----------------	------

35. The DfE publishes online the results of the annual school census taken in January each year. The most recent published data is from January 2021 when the year group due to transfer to secondary school in 2022 was in Year 5. The total number of Year 5 children attending these 13 primary schools was recorded as 748 of which 448 were in the learning partners schools. The school has a PAN of 300 and so less than half of the children attending a feeder school could be offered a place.

Catchment area

36. We asked the admission authority to explain why it decided to use a combination of feeder schools and a catchment area in its arrangements. Using both, is in our experience, an uncommon approach. In response, the admission authority said “Please note that within the Oadby Area there are three secondary schools, all currently rated good and outstanding. Parents therefore have a choice of strong educational establishments and not all parents who send their child to a feeder school choose to send their children to Beauchamp as a first-choice preference. We therefore include catchment area to support those applying from within the area that do not attend a local school.”

37. Clearly, it is not possible for all children attending feeder schools to be offered a place at Beauchamp. Eleven of these feeder schools are also named as feeder schools for both of the other two schools in Oadby, Manor and Gartree. Of the other two, Avenue is a named feeder school for Manor and Glenmere a named feeder school for Gartree. The combined PAN of the three secondary schools is 665. Again, less than the number of children attending the feeder schools in the year group which will transfer in 2022.

38. With living in the catchment area having a lower priority in the oversubscription criteria than attending a feeder school, we find it difficult to see how the reason given in the above quote from the admission authority does support those applying from the area who do not attend a local school. This is borne out by the allocation of places at Beauchamp against each criterion in the last three years.

Table 2

Criterion	2019	2020	2021
EHCP	3	9	4
LAC/PLAC	2	1	1

Learning Partner School	276	242	263
Named Feeder School	19	34	32
Siblings	0	11	0
Catchment	0	1	0
Children of Staff	0	0	0
Distance	0	0	0

39. In only one of those years was a child offered a place solely because they lived in the catchment area. In other years, the PAN was reached and exceeded among those who attended named feeder schools. The practical effect of the catchment area here appears to be to prioritise children who attend a feeder school and who live in the catchment area over those who attend a feeder school and who do not live in the catchment area. However, those who attend a feeder school but live outside the catchment have a higher priority than those who live in the catchment but do not attend a feeder. The result is the arrangements appear in fact to afford little support for “those applying from within the area that do not attend a local school.” Furthermore, it would be the catchment area children, attending a “named feeder” school and who lived nearest to Beauchamp who would be prioritised within the criterion category, over those attending such a school but living in the east of the catchment area, farther away from other schools.

40. Further, there are three primary schools in the catchment area which are not learning partner schools, nor are they named feeder schools. These are St Thomas More, St John Fisher Catholic Primary Academy (St John Fisher) and Meadow Community Primary School (Meadow). We consider it is very likely that children living in the catchment area attend these three schools, given that they are located in the catchment area. Meadow is 1.06 miles from Beauchamp, closer than eight of the current feeder schools; at 1.02 miles distance, St John Fisher is slightly closer still; and St Thomas More is 2.28 miles away, closer than four of the feeder schools. Catchment area children attending any of these three schools located in the catchment area would appear to have a very small chance of being offered a place. This highlights that the stated justification for using a combination of feeder schools and catchment area given by the admission authority is at odds with the reality of the situation. The reality is that using the combination almost always serves only to prioritise those children who both live in the catchment and attend a feeder school.

41. At this point we remind ourselves that St Thomas More had originally been included as a “named feeder” school for 2022. However, the Diocese of Nottingham, which is the religious authority for St Thomas More, objected to it being so named and in ADA3764 the adjudicator found that no reasonable grounds had been given by the admission authority for

selecting St Thomas More as a feeder school and so upheld the objection. We note that if it were to be possible to identify factors which would justify the inclusion of St Thomas More in the school's list of feeder schools (even though that would increase the disparity between the number on roll in the feeder schools and the PAN) it would appear that those factors could also apply equally to Meadow and St John Fisher.

42. We find that using a catchment area and feeder schools together is not prohibited by the Code, but in this case, it does not appear to lead to the outcome which the admission authority said was intended.

Grounds for the selection of feeder schools

43. Paragraph 1.15 of the Code says, "Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion must be transparent and made on reasonable grounds". This means that the admission authority must specifically name the feeder schools and its rationale for selecting those feeder schools must be within the range of options open to a reasonable admission authority. That is, the admission authority cannot select on an irrational basis, nor can it take into account irrelevant considerations. Therefore, we have tried to understand the rationale behind the selection of the feeder schools named in the arrangements.

44. We asked the admission authority why each of the 13 feeder schools was named as a feeder school and why other nearby schools were not. The response was in general terms, not specific to each school, citing the legacy from the three-tier system of schooling, support for children living in the rural areas and the benefits of the learning partnerships.

Three-tier legacy

45. The admission authority referred back to the situation before 2017, when the school was at the top of a three-tier pyramid of schools. At that time, it admitted children into Year 10 from Manor and Gartree which in turn admitted children into Year 6 from schools in Oadby and from schools to the east of the city. The admission authority said "When changing age range, we felt a strong sense of duty to the communities we have traditionally served. This included the five schools that are based in Oadby and the three schools that are based in rural villages between 6-8 miles from Oadby (the location of Beauchamp College, Gartree High School and Manor High School) please see the map below."

46. The map provided showed Brocks Hill, Brookside, Glenmere, Langmoor, Launde, Woodland Grange, (identified as the Oadby schools and six in number rather than the stated five) Fernvale, St Luke's and Houghton on the Hill (identified as rural schools by the admission authority, but of these only Houghton is identified as rural by the DfE). These nine schools are the learning partner schools.

47. The admission authority said that when the schools were reorganised into the current two-tier pattern, it felt a strong sense of duty to the communities which it traditionally served and that it was important to "ensure that children in the villages would continue to have a

route through to Beauchamp”. It considered that “rural schools and church schools are very vulnerable in a system where distance is the key criterion for deciding admissions” and that “if Fernvale, St Luke’s and Houghton on the Hill were not named in our oversubscription criteria it is highly likely that Beauchamp College would fill with students who live closer but would also have access to other good and outstanding schools.”

48. We asked Leicestershire which primary schools had been feeder schools to Manor and Gartree prior to the reorganisation of this pyramid of schools in 2017. The list provided by Leicestershire did not include Avenue, Glenmere, Overdale, St Cuthbert’s and St John the Baptist. The admission authority did not comment on this list when it was circulated to the parties and so we conclude they were not feeder schools for either Manor or Gartree prior to 2017. The justification given for the inclusion of these schools as feeder schools on the grounds of them being part of the previous structure cannot, therefore, be made out. For clarity – we do consider that the use of feeder schools to support historic links with former feeder schools under the previous three-tier pyramid of schools could be a reasonable ground. However, as we have already set out, this cannot be what the admission authority has in fact based its choice of feeder schools on given which schools are and are not included.

Learning partnership

49. The admission authority went on to describe the partnership and collaboration with primary schools focussed on transition, taking account of children’s academic and social needs. It described a number of ways in which children are prepared for transition to secondary school and joint curriculum planning with primary schools. In our view all schools should work together to manage the transition from primary to secondary as well as possible.

50. We asked the admission authority to provide details of the number of children who transferred to the school from each of the 13 feeder schools in the last three years and compared this with the number on roll in the transferring year group at each feeder school taken from the relevant school census. Learning partner schools are marked with *. As these schools are also feeder schools for Manor and Gartree we asked for the same data in our consideration of REF3892 and REF3893. This is tabulated below with “–” showing where the school is not a named feeder. The three secondary schools are represented by their initials.

Table 3

	2019				2020				2021			
	Roll	B	M	G	Roll	B	M	G	Roll	B	M	G
Avenue	71	0	15	-	71	10	14	-	78	5	26	-
Brocks Hill*	61	45	1	14	60	36	2	22	62	32	1	25

Brookside*	62	26	26	3	66	13	31	4	65	21	28	2
Fernvale*	30	26	1	3	26	13	0	4	33	23	2	3
Glenmere*	30	11	-	7	30	18	-	0	32	15	-	8
Houghton on the Hill*	29	18	1	6	33	24	0	5	30	25	1	2
Langmoor*	33	14	0	15	30	17	0	11	30	12	0	16
Launde*	90	63	11	12	90	48	6	21	90	51	8	24
Overdale	118	7	26	48	114	11	31	30	89	11	28	27
St Cuthbert's	39	3	1	15	35	5	1	11	40	6	8	10
St John the Baptist	66	7	10	18	64	9	4	23	66	7	7	39
St Luke's*	35	29	2	3	36	25	1	7	35	22	3	5
Woodland Grange*	62	42	2	11	60	43	3	6	75	55	0	7
Total	726	291	96	155	715	272	93	153	725	285	112	168

51. It is clear from this table that a large proportion of children from learning partner schools transfer to Beauchamp and relatively few from the named feeder schools. This may, of course, be a self-fulfilling prophecy as children in learning partnership schools have higher priority than those in other named feeder schools even if they live further from Beauchamp and not in the catchment area. That said, we consider learning partnerships can be a reasonable ground for the selection of feeder schools. However, it was not made clear to us whether enhanced liaison with the partner schools followed from there being large numbers of pupils transferring from them, or whether the selection of the learning partner school and the higher priority for admission given to their pupils led to the larger numbers being admitted from them.

Rural schools and accessibility

52. The admission authority expressed a concern that children living in rural areas and attending village schools should be able to find a place at the school ahead of children who live close to other secondary schools. We have used distances given on GIAS to look at the proximity of the feeder schools to other secondary schools. In doing so, we have not counted Gartree as it is adjacent to Beauchamp and so of very similar distance from the

other schools. We have also identified the number of secondary schools within two miles of each feeder school. Beauchamp is not always one of these and those schools are marked with **.

Table 4

Feeder school	Number of secondary schools closer than Beauchamp	Number of secondary schools less than two miles from the feeder school
Avenue	18	11**
Brocks Hill*	0	5
Brookside*	1	5
Fernvale*	11	4**
Glenmere*	0	7
Houghton*	6	0
Langmoor*	0	7
Launde*	0	4
Overdale	8	9
St Cuthbert's	0	0
St John the Baptist	17	11**
St Luke's	8	5**
Woodland Grange*	0	3

* Learning Partner School

53. While for six of the feeder schools, Beauchamp is the closest secondary school, and if closest to the primary school, likely to be the closest to homes of pupils attending that primary school, for some feeder schools there are many alternative secondary schools closer than Beauchamp. We note the situation of St Cuthbert's in the village of Great Glen in comparison with Fernvale. Every child attending Fernvale, a Learning Partner School, whether they live in the catchment area or not has priority over every child attending St Cuthbert's even though Fernvale children have 11 secondary schools closer than Beauchamp and St Cuthbert's children have no other secondary schools closer. While selecting feeder schools from more isolated areas to support access to a secondary school for pupils who live in those areas is a reasonable ground, in this case, the selection of a

large number of feeder schools and giving pupils from some higher priority than others appears to work against that aim.

54. We were concerned with the position of children attending St Cuthbert's as it is the most remote of the feeder schools from other secondary schools. Leicestershire informed us that the largest group of children from St Cuthbert's transfer to Kibworth Mead Academy which, according to GIAS, is 3.3 miles away to the south-east of the school. For some children attending St Cuthbert's who live to its east, Kibworth is likely to be closer than Beauchamp, but not for children who live to the west of Great Glen. Although we asked, Leicestershire was unable to provide us with data to determine whether this reflected the pattern of parental preference in the area or not.

Consistency in the selection of feeder schools

55. Naming the schools which were part of the former three-tier system as feeder schools five years ago when the system was changed appears to be within the range of reasonable grounds available to the admission authority for its selection of feeder schools. However, we query whether the merits of this reasoning are weakening over time particularly when five of the 13 feeder schools named for 2022 were not part of the three-tier pyramid.

56. We consider that selecting feeder schools to enable children living in areas where alternative secondary schools are less easy to access is also a potentially reasonable ground. However, as illustrated above, it is possible to identify feeder schools which have many alternative secondary schools nearer to them than Beauchamp while there are primary schools in the catchment area which are closer to Beauchamp which are not feeder schools.

57. We also consider that selecting feeder schools based on strong learning partnership is a reasonable ground. However, because pupils at the learning partner schools have higher priority than those attending other feeder schools it appears to be possible for this selection to work against the aims of the intention of the previous reason. Because St Cuthbert's is not a learning partner school, its pupils, who are the most remote from other secondary schools, have lower priority than children from, for example, Fernvale, where there are several alternative secondary schools within two miles.

58. Another example of the reasons for the selection of feeder schools based on the learning partnership conflicting with the selection of feeder schools for other reasons is the case of Glenmere and St Luke's. Glenmere is a learning partner school, and so its pupils have priority over those at St Luke's. Glenmere was not part of the three-tier pyramid; however, St Luke's was.

59. The table below lists the 13 feeder schools and the characteristics taken into account in their selection as feeder schools.

Table 5

	Part of 3-tier system	Learning Partner	Closest	In catchment	Characteristics met
Avenue	No	No	No	Yes	1
Brocks Hill	Yes	Yes	Yes	Yes	4
Brookside	Yes	Yes	No	Yes	3
Fernvale	Yes	Yes	No	Yes	3
Glenmere	No	Yes	Yes	Yes	3
Houghton on the Hill	Yes	Yes	No	Yes	3
Langmoor	Yes	Yes	Yes	Yes	4
Launde	Yes	Yes	Yes	Yes	4
Overdale	No	No	No	Yes	1
St Cuthbert's	No	No	Yes	Yes	2
St John's	No	No	No	Yes	1
St Luke's	Yes	No	No	Yes	2
Woodland Grange	Yes	Yes	Yes	Yes	4

60. The only characteristic shared by all of these schools is being located in the catchment area. As noted above there are three other primary schools located in the catchment area and we have tabulated these schools in the same way.

Table 6

	Part of 3-tier system	Learning Partner	Closest	In catchment	Characteristics met
St Thomas More	No	No	No	Yes	1
The Meadow	No	No	Yes	Yes	2

St John Fisher	No	No	Yes	Yes	2
----------------	----	----	-----	-----	---

61. It seems to us that some of the feeder schools have few of the characteristics on which the admission authority states that it has selected them as feeder schools, while there are other primary schools in the area not included as feeder schools which share as many or more of those characteristics. Although asked, the admission authority has not explained why these have not been included as feeder schools. Consequently, we find that while the grounds put forward by the admission authority for the selection of feeder schools are on the whole potentially reasonable, they have not been applied consistently and indeed, can work against each other.

62. We, therefore, conclude that the selection of feeder schools has not been made on reasonable grounds and so does not conform with the Code in this respect.

63. In light of that finding, it will be necessary for Beauchamp to revise its admission arrangements. It is not therefore strictly necessary for us to consider the other matters raised in the referral (indirect discrimination, Public Sector Equality Duty). However, as those matters have been expressly raised, and because it may assist the admission authority when considering the new arrangements, we have considered them as set out below.

The Public Sector Equality Duty (PSED)

64. Paragraph 1.8 of the Code requires that oversubscription criteria must be, amongst other things, compliant with equalities legislation. Section 149 of the EA sets out the PSED. That section of the legislation requires public authorities, including admission authorities, to have regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under that Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

65. The referrer asserted that, in omitting St Thomas More from its list of feeder schools, the admission authority had failed to meet its duties under the PSED.

66. Whilst the admission authority did not explicitly respond to the assertion put forward, it explained that it is a non-denominational school that welcomes all young people from all faiths and backgrounds. It pointed to the range of religions and beliefs amongst its pupil population as evidence that it is an inclusive school and is not discriminating in relation to

any protected characteristic. It provided a range of data in response, including the following breakdown from the academic year 2021-2022:

Table 7

Religion	Number of pupils	Percentage
Buddhist	11	0.5
Christian	354	15.7
Hindu	386	17.1
Jewish	2	0.1
Muslim	562	24.9
No religion	364	16.1
Other religion	18	0.8
Refused	270	12.0
Sikh	291	12.9
Total	2258	100

67. The admission authority made reference to the fact that it has been responsive to parental requests to list new feeder schools by holding appropriate consultations, without reference to whether such schools have a designated religious character and if so the nature of that religious character. It referred, for example, to its consultation on and subsequent inclusion of St Thomas More in its list of feeder schools prior to ADA3764.

68. We noted that Beauchamp’s website refers to its ‘Pledge’ to its pupils, which includes a pledge that the school will “Ensure that every young person feels safe, happy and valued, so that they can have outstanding academic success and holistic development regardless of their background”. We also noted that Beauchamp’s website included a page entitled ‘Equality Objectives’ in which it recognises its responsibilities under the PSED, listing them, and outlining specific aims for the current year towards fulfilling them. These included “To promote cultural understanding and awareness and tolerance of different religious beliefs between different ethnic groups within our school community”. We noted that the admissions page on the website stressed that “We welcome applications from students across the city and county”. Taken together, we considered that these statements provided

evidence of a school that has an inclusive culture that promotes equality of opportunity and fosters good relations across cultural and religious divides.

69. We have not been provided with any written record that the admission authority explicitly considered the PSED when it determined the arrangements. However, we note that the relevant legislation only requires that the admission authority have regard to the relevant matters, it is not prescriptive in requiring a record to be kept of that action nor for any record to be kept in a particular format. It is, however, good practice for some record to be kept of how the PSED has been considered, as this can provide a sound evidential basis for showing compliance.

70. We note that the PSED does not amount to a duty to achieve a specific end, but rather a duty to have due regard to the matters specified, and that when considering compliance with the PSED the courts have held that this is a matter of substance rather than form. Notwithstanding the absence of any written record, we therefore take into account the admission authority's explanation that it has considered and consulted on listing primary schools as feeder schools whenever that has been requested, irrespective of the religious designation or otherwise of the school (and the evidence that it recently did so in relation to St Thomas More), the admission authority's explanation that it serves a diverse pupil population in terms of religion and belief (supported by the data provided) and the school's statements on its website in terms of its intent on ensuring equality of opportunity and community cohesion. On that basis, we would not have found that the admission authority had failed to comply with the PSED. In any event, we observe that the admission authority will have to redetermine its admission arrangements, and when doing so will have to comply with the PSED to ensure that the arrangements comply with the mandatory requirements.

Indirect discrimination

71. The referrer raised a concern that the omission of St Thomas More from the feeder school list for Beauchamp resulted in indirect discrimination on the grounds of religion or belief, contrary to both the EA and paragraph 1.8 of the Code.

72. Section 85 (1)(a) of the EA makes clear that admission authorities must not discriminate in the arrangements that they make for deciding who is offered admission as a pupil, including in their admission arrangements. Paragraph 5 of Schedule 11 to the EA provides an exemption from this requirement in relation to the protected characteristic of religion or belief for those schools that are designated as having a particular religious character. As Beauchamp is not so designated, it does not have recourse to that exemption.

73. Section 19 of the EA provides the following in relation to indirect discrimination:

“(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics are— age; disability; gender reassignment; marriage and civil partnership; race; religion or belief; sex; sexual orientation.”

74. The referrer's arguments in this regard were equivalent for all three schools – Beauchamp, Manor and Gartree. The referrer explained that the omission of St Thomas More from the list of feeder schools for Beauchamp, Manor and Gartree, meant that local children attending St Thomas More had a lower chance of obtaining a place at a local secondary school with an Ofsted rating of Good or Outstanding as compared with those children attending a feeder school. The referrer considered this disadvantage to be unlawful discrimination because those whom it impacted shared a protected characteristic under the EA. It was not clear to us which protected characteristic the referrer sought to rely upon. In some correspondence the referrer referred to the shared characteristic as attendance at a Catholic primary school. In other correspondence, the referrer referred to children attending St Thomas More and holding a Church of England religious belief, a Roman Catholic religious belief or no religious belief.

75. The admission authority explained to us that it had consulted on including St Thomas More in its list of feeder schools, decided to include it but then had omitted it due to the OSA determination ADA3764. It further explained that it has schools with a designated religious character within its list of feeder schools (for example, St Luke's), but that it agreed that its arrangements were potentially discriminatory against “other faith schools”. We were puzzled by this response because arrangements would only be unlawful under the EA if they discriminate against persons with a protected characteristic. As explained above, institutions, such as schools, are not afforded any such protection by the EA. We presume that the admission authority meant pupils at those schools.

76. Attendance at a primary school with a designated religious character is not a protected characteristic in and of itself. It is likely that a relatively high proportion of children attending St Thomas More would hold a Catholic religious belief compared to the proportion of Catholic children living in the area. The oversubscription criteria for that school prioritise Catholic children and it is more likely that Catholic parents will seek a Catholic education for their children than those who are not Catholic. However, we do not and cannot know whether most or all primary school aged Catholics in the area attend St Thomas More, or indeed any Catholic primary school. Unlike other characteristics such as ethnicity, pupils'

faith is not included in the annual school census and so no robust data is available to ascertain the distribution of children of various faiths among local schools.

77. We considered whether the admission authority for Beauchamp had indirectly discriminated against children attending St Thomas More who had a Church of England religious belief, a Roman Catholic religious belief or no religious belief by applying a provision, criterion or practice, in this case the school's admission arrangements, which was discriminatory in relation to their relevant protected characteristic. We did so by considering the provisions of section 19 of the EA.

78. Does the admission authority apply, or would it apply, the arrangements to persons with whom the child does not share the characteristic? It was clear from the evidence before us that the admission authority applied its arrangements to all applicants equally, irrespective of their religious belief or none.

79. Do the arrangements, or would the arrangements, put persons with whom the child shares the characteristic at a particular disadvantage when compared with persons with whom the child does not share it? Not including St Thomas More as a feeder school is more likely to disadvantage Catholics than children of other faiths or none in relation to admission to Beauchamp, if (as we accept is a reasonable assumption) children attending St Thomas More are more likely to be Catholic. Children who are Church of England, any other faith or no faith are not being disadvantaged in our view because of their faith or lack of faith.

80. However, we note that any such disadvantage is attributable purely and solely to the fact that they attend a school with a particular character and not to any characteristic of the child. As described above, all children at St Thomas More would be able to obtain places at other schools on the basis of where they lived, and Catholics would have high priority for a place at a Catholic secondary school on the basis of faith. In addition, a Catholic child whose parent had chosen to send him or her to one of the feeder primary schools for Beauchamp would fall to be treated in the same way as any other pupil at that feeder school for the purposes of admission to Beauchamp.

81. We have thought carefully about whether having less chance of being admitted to Beauchamp amounts to a "particular disadvantage" within the meaning of the EA. We do not think that it does, given the availability of other schools within a reasonable distance. On that basis we do not consider that the admission arrangements give rise to indirect discrimination on the basis of the protected characteristic of religion or belief.

82. If we were wrong in that conclusion, and St Thomas More's not being a feeder for Beauchamp did put Catholics or other children at a particular disadvantage under the EA, the question of justification would arise. If the admission authority could show that the arrangements are a proportionate means of achieving a legitimate aim, they would not amount to unlawful discrimination.

83. We consider that the issue of legitimate aim would be satisfied. Paragraph 1.6 of the Code requires the admission authority to set criteria against which places will be allocated if

Beauchamp is oversubscribed. The admission authority told us that its reasons for selecting those schools that appear on its list of feeder schools was, as set out above, (a) historic ties arising from the previous three-tier school pyramid, (b) a desire to avoid children living in rural areas having limited options in terms of secondary schools, and (c) learning partnership arrangements. We found above that these were potentially reasonable grounds for selecting feeder schools.

84. We note that there is a potential argument that even if the admission authority had applied all of its stated grounds accurately and consistently, those grounds would not have required the authority to have included St Thomas More, and that the number of children attending the 13 feeder schools is already greater than the number of places available at Beauchamp (and at Beauchamp and Manor and Gartree combined). Those are both matters which might go to the question of proportionality.

85. In light of our earlier determination that the admission authority did not appear to have accurately and consistently applied its stated grounds for its selection of feeder schools when making its selection, we consider that it is difficult to reach any concluded view on the proportionality of the arrangements. This further emphasises the importance of the admission authority having due regard to its equality duties when it comes to revise the arrangements.

Other matters

86. On the second page of the arrangements, it says: "Late applications will not be considered until all applications that were received on time have been processed". Paragraph 14 of the Code requires that arrangements are clear and fair. This provision may not be fair to a child whose application is delayed through exceptional or unforeseeable circumstances. It is also inconsistent with the Scheme of Co-ordination in Leicestershire which says: "When Leicestershire LA considers that applications are received late for a good reason, e.g. when a single parent has been hospitalised, or a family are returning from abroad. These will be considered along with the applications received before the closing date of 31st October, providing documentary evidence of the reason for lateness is also received and it is no later than end of January." This inconsistency renders the arrangements unclear.

87. Leicestershire confirmed that this part of the arrangements did not conform with the scheme of co-ordination and when this issue was raised with the admission authority it agreed to amend this part of the arrangements.

88. The arrangements refer to statements of special educational need. These have now been replaced by Education, Health and Care Plans. Using obsolete terms renders the arrangements unclear. Paragraph 14 of the Code requires that arrangements are clear. The admission authority said that it would remove the reference to statements of special educational need.

89. In the part of the arrangements headed “Chronological Age Admission” the reference to the Code is to paragraph 2.17. Since September 2021 the relevant paragraph of the Code is 2.18. This section of the arrangements refers to being “taught” outside of the normal age group. It is one thing to be admitted outside of the normal age group, and that is the concern of the Code; being taught outside of the normal age group is a strategy that might be appropriate after a child is admitted. This part of the arrangements is not clear and the admission authority has agreed to amend it.

90. The first oversubscription criterion is correctly for looked after and previously looked children. However, we find that it is not clear because previously looked after children are not defined in the arrangements. The definition of previously looked after children in the Code changed in September 2021, and in July 2021 the Department for Education (DfE) provided guidance to admission authorities on the action they should take to address this change. Paragraph 1.8 of the Code requires that oversubscription criteria are clear. When this matter was drawn to its attention the admission authority agreed to add a definition of previously looked after children to the arrangements which met the September 2021 requirement.

91. The fifth oversubscription criterion refers to a catchment area map available on the school’s website. When the adjudicators first saw the map, it was dated as being for 2020/21 entry, this has now been revised to show that it applies for 2022 and is shown above. It can be seen from this map that in places the catchment area boundary follows roads. The scale of the map on the website does not allow one to see whether houses along those roads are included in the catchment area or excluded from the catchment area. Paragraph 1.14 of the Code requires that catchment areas are clearly defined. When this matter was raised with the admission authority it said that the map was commissioned from Leicestershire and a new one would be requested. We note that Leicestershire commented that unclear boundaries would lead to confusion.

92. There is a discrepancy between the wording of the sixth oversubscription criterion which is for children of staff “who have worked at the college for at least two years at the time of application” and the related note v, found as V on the next page. The note says that staff must have been employed for “at least 2 years at the time of admission”. Paragraph 1.39 of the Code permits giving priority to members of staff if employed for two years at the time of application. That would be 31 October 2021, not 1 September 2022. When this matter was raised with the admission authority, it agreed to correct the note.

93. The oversubscription criteria use lower case roman numerals to refer to notes clarifying them. However, on the next page where the notes appear the notes are labelled with upper case roman numerals. The admission authority agreed to use just lower case and this will prevent any possible misunderstanding.

94. Note IV concerns how a child’s home address will be determined. It says “the school will accept 50:50 living arrangements”, but does not say which address will be used to prioritise applications in these circumstances. It is a requirement of paragraph 1.13 of the Code to make it clear how a child’s address will be determined and to include provision for

cases where separated parents have shared responsibility for a child. The admission authority agreed to address this issue.

Next Steps

95. Because we have found that the selection of feeder schools for 2022 was not made on reasonable grounds and so does not conform with paragraph 1.15 of the Code and that the arrangements do not conform with other parts of the Code, the admission authority is required to revise the arrangements. It is not for us to say how the arrangements should be revised, but we are required to say by when they must be revised. Paragraph 3.1 of the Code says, “The admission authority must, where necessary, revise their admission arrangements to give effect to the Schools 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 Schools Adjudicator.”

96. The “other matters” set out in the previous section mainly relate to the clarity of the arrangements and we see no reason why they cannot be revised within two months as set out in paragraph 3.1 of the Code. We explain below why we are setting the date of 28 February 2023 as the deadline for the admission authority to revise the arrangements to address the selection of feeder schools.

97. In deciding to set this date we considered the timing of the referral and of the determination. The referral was made after parents had made their applications based on the published arrangements and after the process of applying the arrangements had begun. The determination is being issued after places have been allocated by that process and so it will not affect which children will be offered places for September 2022 in the main admissions round. The deadline for the determination of arrangements for 2023 had also passed.

98. The revision of the arrangements to address the issues we have identified with the selection of feeder schools is not a simple exercise. We stress here that it is not for the adjudicators to say how the admission authority should revise the arrangements. However, it appears to us that if the arrangements are revised quickly without appropriate consultation with parents, the local authorities and other schools in the area there is a significant risk that the revised arrangements could lead to unforeseen issues which would result in them being referred to the adjudicator again. We also note the importance of the admission authority complying with its duties under applicable legislation, including the EA. This timing is intended to help the admission authority work out a sustainable way ahead.

99. While we have found that the selection of feeder schools was not made on reasonable grounds, we have not seen any evidence that in practice this is leading to unfair disadvantage for any children. Nor has either local authority suggested that the selection of feeder schools leads to difficulty in placing children in secondary schools within an acceptable distance of their homes. Any changes made to the 2022 arrangements would only affect offers of places made from the waiting list in operation until 31 December 2022 and not the majority of offers which will already have been made.

100. We have also considered the implications of our determination on any appeal to the independent panel from the parent of a child refused a place at Beauchamp. The first consideration for an appeal panel as set out in paragraph 3.2 of The School Admission Appeals Code is “whether the admission arrangements [...] complied with the mandatory requirements of the School Admissions Code”. This determination settles that question; however, paragraph 3.5 of the School Admission Appeals Code says, “The panel must uphold the appeal at the first stage where: a) it finds the admission arrangements did not comply with admissions law or had not been correctly and impartially applied, and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied”. The panel would not be in a position to know what selection of feeder schools would be reasonable or whether the child would have been admitted if there had been a different set of feeder schools and so the second part of the test would be impossible to apply.

101. We are aware that an objection has been lodged to the arrangements for the school for 2023. Our jurisdiction in this determination is solely for the 2022 arrangements.

Summary of Findings

102. The referrer was of the view that because St Thomas More was not a feeder school for Beauchamp, children attending St Thomas More were unfairly and unlawfully disadvantaged. The disadvantage she saw was that those children attending a feeder school had more desirable secondary schools available for which they had high priority than did children attending St Thomas More. She was of the view that if the admission authority had made the selection of feeder schools on reasonable grounds and had had proper regard to the PSED, St Thomas More would be included as a feeder school.

103. We find that children living in the area from which they could access St Thomas More do in fact have several alternative secondary schools closer to their homes than children living in some, but not all, of the feeder schools’ local areas and, based on where they live, would have high priority for a place at one of those secondary schools and a chance of a place at others. Therefore, while the referrer may prefer that her child attend Beauchamp rather than one of the schools where her child would have high priority, we find no unfair disadvantage arising to her child or others attending St Thomas More from it not being included as a feeder school of Beauchamp. Indeed, if it were a feeder school, by increasing priority for St Thomas More pupils, it would reduce priority for other pupils who would have fewer alternative secondary schools available within an acceptable distance of their homes which might result in unfairness.

104. We find that the arrangements do not result in unlawful indirect discrimination on the grounds of religion or belief, and we do not find that the school failed to meet its duties under the PSED when determining its arrangements.

105. We do find, however, that the feeder schools were not selected on reasonable grounds. Whilst the reasons given by the admission authority were reasonable, it was clear from the evidence presented to us that the selection could not have been made, or wholly

made, on those grounds. Some of the feeder schools only share a few of the characteristics described by the admission authority as its reasons for its selection of the feeder schools while we have identified other schools which share more of those characteristics but are not included. We therefore find that the arrangements do not conform with paragraph 1.15 of the Code.

106. We also find that the arrangements do not conform with the Code in the other ways set out above.

Determination

107. We have considered the admission arrangements for September 2022 for Beauchamp College, Leicestershire in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the selection of feeder schools the arrangements do not conform with the requirements. We 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.

108. By virtue of section 88K(2) the adjudicators' decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise the selection of feeder schools by 28 February 2023 and the other aspects of its admission arrangements within two months of the date of this determination.

Dated: 29 April 2022

Signed:

Schools Adjudicators: Phil Whiffing

Jane Kilgannon