



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4107, ADA4109-4112, ADA4118-4120, ADA4129-4130, ADA4133, ADA4140-4141, ADA4151, ADA4157-4164, ADA4190

Objectors: A number of parents, some members of the public, the governing boards of Wilberfoss CE Primary School and Bugthorpe and Sutton upon Derwent C of E Federation, the Diocese of York

Admission authority: The Wolds Learning Partnership for Woldgate School and Sixth Form College in the East Riding of Yorkshire

Date of decision: 13 July 2023

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2024 determined by the Wolds Learning Partnership for Woldgate School and Sixth Form College.

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), a number of objections have been referred to the adjudicator about the admission arrangements (the arrangements) for Woldgate School and Sixth Form College (the school), a secondary school in the East Riding of Yorkshire, for September 2024. The objectors are a number of parents whose children will be the right age to join the school in Year 7 (Y7) in 2024, some members of the public, the governing boards of Wilberfoss CE

Primary School and Bugthorpe and Sutton upon Derwent C of E Federation, and the Diocese of York.

2. The objections raise substantially the same issues and are in response to changes to the arrangements that provide higher priorities in the oversubscription criteria for children attending certain feeder schools and children of staff members. There is a common concern that certain children in the catchment area who are expecting to join the school in September 2024 in Y7 might not be able to do so. Concerns are also raised about the clarity of the arrangements, their fairness and reasonableness, and their compliance with equalities legislation.

3. The local authority (LA) for the area in which the school is located is the East Riding of Yorkshire Council. The LA is a party to this objection. Other parties to the objection are the Wolds Learning Partnership (WLP) (the trust) which is the admission authority for the school and the objectors.

Jurisdiction

4. 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 trust, which is the admission authority for the school, on that basis. The objectors submitted their objection to these determined arrangements between 16 March 2023 and 15 May 2023. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

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

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

- a. a copy of the minutes of the meeting of the trust board at which the arrangements were determined;
- b. a copy of the arrangements as originally determined on 23 February 2023 (the original arrangements);
- c. the objectors' forms of objection dated between 16 March 2023 and 15 May 2023 and supporting documents;
- d. the trust's response to the objections, supporting documents and subsequent correspondence;
- e. the LA's response to the objections, supporting documents and subsequent

correspondence;

- f. information available on the websites of the local authority, the school and the Department for Education;
- g. maps of the area identifying relevant schools;
- h. confirmation of when consultation on the arrangements took place and details of the nature of the consultation;
- i. a letter to prospective parents dated 1 February 2023 (the February letter) signed by the headteacher of the school, which includes actions that the school intends to take in respect of admissions to the school in September 2024;
- j. a letter to prospective parents dated 14 March 2023 (the March letter) signed by the headteacher of the school, which includes “pledges” about the actions that the admission authority intends to take in respect of admissions to the school in September 2024; and
- k. a copy of the arrangements following a variation agreed by the trust board on 27 April 2023 (the varied arrangements);

The Objections

- 7. The objections can be summarised as follows:
 - a. that when the original arrangements are read alongside the February and March letters, the arrangements are unclear. Parents are therefore not able to look at the arrangements and understand easily how places for the school will be allocated, as required by paragraph 14 of the Code;
 - b. that the priority given in the oversubscription criteria for admission in 2024 to children attending a WLP trust junior or primary school since the beginning of year 3 does not comply with 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;
 - c. that the changes to the oversubscription criteria for September 2024 are unfair to certain children living in the catchment area or attending certain feeder schools, and in particular that the changes may disadvantage certain children who then face significantly longer or more difficult journeys to other schools as a result. Paragraph 14 of the Code states that admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair; and
 - d. that the arrangements do not comply with equalities legislation and are accordingly also in breach of paragraph 1.8 of the Code which makes clear that they must so comply.

8. The following objections (the pre-variation objections) were received before the date on which the arrangements were varied. These are: ADA4107, ADA4109-4112, ADA4118-4120, ADA4129-4130. The remaining objections (the post-variation objections) were received subsequently.

Other Matters

9. I have also considered a number of other matters in the determined arrangements which appeared to me to not confirm to the Code. These are:

- a. the clarity of the wording for admission of children with an EHCP that names the school (paragraph 14 of the Code);
- b. the clarity of the period for which the published admission number (PAN) applies (paragraph 14 of the Code);
- c. the clarity of the wording in relation to the ranking of preferences within the oversubscription criteria (paragraph 14 of the Code);
- d. the arrangements for in-year admissions (paragraph 1.4 of the Code);
- e. the clarity of the terms “named trust schools” and “feeder schools” (paragraph 14 of the Code); and
- f. whether the requirements for children attending feeder schools to have done so since the beginning of Y3 in order to gain priority for a place at the school are reasonable and fair (paragraphs 1.8 and 14 of the Code).

Background

10. Woldgate School and Sixth Form College is an 11-18 non-selective academy in Pocklington in the East Riding of Yorkshire. It is one of four academies in the WLP multi-academy trust, the others being Stamford Bridge Primary School, Pocklington Junior School and Melbourne Community Primary School.

11. The objections relate to the admission arrangements for Y7 in 2024. Following a period of consultation, the trust determined a set of arrangements for admission to Y7 in 2024 which have oversubscription criteria that are different to those for admission to Y7 in 2023. The arrangements for 2023 and the original arrangements for 2024 both state that PAN for Y7 is 208.

12. The varied arrangements for 2024 are the same as the original arrangements for 2024 except that the PAN has been increased to 240.

13. The oversubscription criteria for 2023 can be summarised as (using the trust’s numbering system):

- i. children who are looked after or previously looked after;

- ii. children who live in the designated catchment area;
- iii. children who have a sibling attending in years 7-11 school at the time of admission;
- iv. children who have attended the school's named feeder junior or primary schools since the beginning of National Curriculum Y3 (the feeder school requirement);
and
- v. other children ranked by distance.

If the school is oversubscribed, children in each criterion are ranked according to subsequent criteria in order. For example, children living in the designated catchment area - criterion (ii) - are ranked by criterion (iii) then criterion (iv) then criterion (v).

14. The oversubscription criteria for 2024 (in both the original and varied versions) can be summarised as:

- i. children who are looked after or previously looked after;
- ii. children of members of staff who have been employed by the school for two years or more at the time the application for admission to the school is made or have been recruited to fill a vacant post for which there is a demonstrable skill shortage;
- iii. children who have attended the junior or primary schools that are part of the Wolds Learning Partnership since the beginning of National Curriculum Year 3;
- iv. children who live in the designated catchment area;
- v. children who have a sibling attending in years 7-11 school at the time of admission;
- vi. children who have attended named feeder junior or primary schools that are not in the trust since the beginning of National Curriculum Y3; and
- vii. Other children ranked by distance.

As before, children in each criterion are ranked according to subsequent criteria in order.

15. The named feeder junior or primary schools that are in the WLP trust are Stamford Bridge Primary School, Pocklington Junior School and Melbourne Community Primary School.

16. The named feeder junior or primary schools that are not in the trust are Barmby Moor CE Primary School, Bishop Wilton CE VC Primary School, Bugthorpe CE VC Primary School, Fangfoss St. Martin's CE Primary School, Sutton upon Derwent CE VC Primary School, Warter CE Primary School, and Wilberfoss CE VC Primary School.

17. There is also a Catholic primary school in the catchment area, but it is not one of the named feeders. Data from the school shows an average of around nine children per year join the school in Y7 from this primary school.

The catchment system in the East Riding of Yorkshire

18. There are 18 state-funded secondary schools in the East Riding of Yorkshire, and the LA's online composite prospectus for 2023 admissions (the prospectus) says that "All eighteen schools have catchment areas – these are fixed areas that do not change from year to year". The LA has told me that these areas are long-standing and established and that "very rarely does the Council consult on changing catchment areas and has done so infrequently and not in this area". The interactive map on the LA's website shows that secondary catchment areas are comprised of the catchment areas of the primary schools that sit within them. I pause here to note that for those schools for which the LA is not the admission authority it is not responsible for their catchment areas. That said, it is certainly in the interests of parents and of good administration for there to be agreement between admission authorities about the catchment areas of individual schools.

19. The prospectus explains that the oversubscription criteria used in the LA generally prioritise residence in a designated catchment area over attending a feeder school. The latter is then used as a means of ranking applicants who live out of catchment and as a ranking factor within criteria, for example when a school is oversubscribed with children living in catchment.

20. The prospectus gives advice to parents making their secondary school preferences, and in doing so frequently refers to the catchment system with instructions such as:

- a. "Naming your catchment school as one of your preferences gives you the best chance of making sure you get a place at a local school." (p4)
- b. **"We strongly recommend that you consider your catchment school and use one of your three preferences"** [LA emphasis] (p8).
- c. "We strongly recommend that you name your catchment school as one of these preferences. Should you not express a preference for your catchment school, a place will not be held there in reserve for your child." (p5)
- d. "All areas of the East Riding fall within a secondary school catchment area and for most children their catchment area school is also their closest school. Most children choose to apply for their catchment area school and go on to attend there, as attending a school in the area in which they live has many benefits such as in getting to and from school easily, and retaining connections within their local community." (p7)
- e. "Make sure you know which school your catchment school is." (p8)

f. In relation to parents applying for a faith school “We also recommend that at least one of your preferences is for a non-faith school and that you consider your local catchment school as a preference considering the uncertainty around faith-based admissions in the current circumstances.” (p10)

21. The home to school transport arrangements for the area are based on the catchment areas and the prospectus states that free transport is provided for children living in the East Riding who attend their catchment area school and have a journey of more than three miles.

22. The LA has told me that the catchment system supports their duty to ensure sufficient school places are available to meet overall demand.

23. In general, the purpose of catchment areas across a wider area is to ensure that no child has an unreasonably long journey to school, although a catchment area does not necessarily guarantee a place at a school, and a catchment school may not necessarily be a child’s closest school. Accordingly, after taking into account all the information above, it seems clear to me that the long-established catchment areas in the East Riding of Yorkshire do indeed serve this purpose.

Consideration of Case

The clarity of the arrangements in respect of the PAN

24. The School Standards and Framework Act 1998 (SSFA 1998) defines the admission number (which is the same as what is referred to in the Code and here as the PAN) as “the number of pupils...that it is intended to admit to the school in that year”. The Act provides also that schools must admit up to PAN if enough children apply and that there can be no prejudice to the provision of efficient education or the efficient use of resources below PAN in a normal year of admission.

25. The school has provided me with the following figures of its PAN and the numbers admitted in recent years:

Table 1

	Incoming y7 in September 2023 (projected)	2022 entry	2021 entry	2020 entry
Student numbers admitted	233	224	238	225

PAN for year of entry	208	208	208	208
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26. Table 1 shows that the original determined PAN for entry to Y7 in 2024 of 208 bears little relation to the numbers previously admitted to the school.

27. In correspondence with me, the trust says “The school has though historically recruited above PAN for a number of years to ensure that any child that wants to come to the school can be granted a place.” This statement is not entirely accurate, because in 2020 and 2021 there were applicants in criterion (v) who expressed a preference but were not offered a place. Nevertheless, there is a pattern of consistently admitting more than 208 students in order to provide places to all students in categories (i) to (iv). I have therefore concluded that at the point of determination of the 2024 arrangements, the trust was fully aware of historical admission patterns.

28. I also consider that it is highly unlikely that at the time of determination, the trust was not also aware of the intention to admit more than 208 children in future years. The March letter and the February letter contain five pledges, two of which directly relate to admissions in 2024:

- a. “Admit up to 240 pupils (32 pupils above our published admission number) into Year 7 each year, to ensure all local children are able to attend Woldgate School and can benefit from the new ‘world class’ educational facilities.”
- b. “Guarantee all current pupils who live within the catchment and attend a catchment primary school can secure a place in Year 7 and commit to maintaining strong partnerships with all feeder schools (be they non-denominational, Church of England, or other).”

29. I therefore find that when originally determining the PAN for 2024, the trust determined a number that bore no resemblance to the numbers it intended to admit, and hence the PAN of 208 was irrational and unreasonable. Because the PAN was set at an unreasonable number, it was not possible for parents to look at the arrangements and the February and March letters and understand how many children would be admitted. I find that this made the original arrangements unclear, and I uphold this aspect of the pre-variation objections.

30. On 8 June 2023 the OSA received formal confirmation from the trust that it had varied the arrangements so that the PAN for 2024 is now 240. I find that 240 is a rational number in the circumstances, and hence this change addresses the matter of unreasonableness and makes it clear that the school will admit 240 children if there are at least that many preferences. However, as of 27 June the information had still not been published on the school’s website as required by paragraph 3.7 of the Code, although a check of the website reveals that this has now been remedied. Nonetheless, at the times that the post-variation objections were made, it was still not clear to parents how many

places would be available. I therefore uphold the post-variation objections to the clarity of the arrangements.

Naming of feeder schools

31. The arrangements for 2024/25 differ from previous years in that they separate the same named feeder schools into two groups and give a different priority to each group. The trust wishes to give a higher priority to children attending a WLP trust junior or primary school since the beginning of year 3.

32. I have considered whether this complies with 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.

33. I find that the selection of the feeder schools is transparent and perfectly clear. They are all in the catchment area of the school and they are individually named in the arrangements, based on whether they are WLP trust schools or one of the remaining junior or primary feeder schools in the catchment.

34. The Code requires that the selection is made “on reasonable grounds” and I will take this to mean that the selection is not irrational or illogical. When I consider the catchment system in the area as described in the LA’s prospectus, I do not find it illogical or irrational that all catchment junior or primary schools (with the exception of the Catholic primary school) are named as feeders.

35. This still leaves the matter of the division of the feeders into two groups. There is nothing in the Code to suggest that all feeders must have the same degree of priority, but the division needs to be reasonable and must not have the effect of making the arrangements as a whole unreasonable or unfair. To address this, the trust has provided me with a detailed description of how it considers the school’s relationship with the WLP feeders to be different to its relationship with the non-trust feeders, such as:

- a. “A curriculum that is planned, sequenced, and delivered simultaneously as part of a coherent plan from age 3 to 19 across all schools within the Trust.”
- b. “An assessment system that is currently fully integrated into the curriculum for all subject areas and informs the Trust’s pupil intervention, setting, pedagogy and Schemes of Learning.”
- c. “A shared pedagogical Learning Cycle, with shared subject vocabulary, teaching methodologies and systems to aid learning.”
- d. “A Trust SEND and Disadvantaged strategy that involves working with vulnerable children and families to support engagement with education and to keep children safe, from aged 3 to 19.”

36. Where a feeder school is a member of the same MAT as a secondary school, that of itself does not make its naming reasonable. However, the trust has provided four different

reasons to justify its treatment of WLP feeders, all of which seem to me to be rational and logical. I therefore do not consider that I have sufficient evidence for the threshold for unreasonableness to have been met, and accordingly I conclude that in having two different categories of feeder school with different priority, the arrangements are not in breach of paragraph 1.15 of the Code.

37. However, just because I find this aspect of the arrangements to be reasonable, it does not mean that the arrangements are necessarily fair as required by paragraph 14 of the Code, and that is the matter to which I now turn.

The fairness of oversubscription criterion (iii)

38. This criterion gives a higher priority to all children who meet the feeder school requirement (attendance since the start of Y3) at a WLP trust school irrespective of where they live than to children who have priority on the basis of living in the designated catchment area. Previously children who lived outside the catchment but attended a WLP primary had a lower priority than those living in the designated catchment area, and the same priority as those meeting the requirement at other feeders.

39. There is strong evidence that the school has a long-standing commitment to admitting children who reside within the catchment area:

- a. According to the Government's 'Get Information About Schools' (GIAS) website, the number of pupils at the school is 1210, whilst its capacity is 1100. The school has historically avoided destabilising the catchment system by offering to meet all catchment preferences, regardless of the PAN, even though this has meant exceeding capacity.
- b. The LA has highlighted to me that "for entry in 2023, in offering up to 240 places at Woldgate School, the academy trust has met all preferences. This is in a relatively high 'birth year' / a year with many local residents of Year 6 age, and despite this, the outcome has been a small number of surplus places, with all preferences for the school successfully met."

40. Central to the objections in this case is the allegation that the revised criteria for 2024 are unfair to children in the catchment area who are not attending WLP trust feeder schools. It is to this matter that I turn now.

41. The Code does not define fairness, which means that it has its ordinary dictionary meaning. In considering whether the arrangements are unfair to catchment children who do not attend WLP schools I will look at the consequences for them of not being able to gain a place at the school. I will consider also the effects of the higher priority that the arrangements give to non-catchment children who attend WLP primary schools upon any other group of children. In doing this, I have in mind that all oversubscription criteria will advantage some and disadvantage others; I have to consider whether they have done so fairly, balancing the effect on different groups.

42. The original arrangements allow the school to make offers in line with a PAN of 208. The current numbers in Y5, who will be starting at secondary school in 2024, are shown in table 3 below. This data shows that there are 126 children who will be eligible for admission under criterion (iii) as attending trust feeders, and 91 children who will be eligible under criterion (iv) as living in catchment and attending other primary schools. It is therefore a potential outcome that the school will have more than 208 preferences which will need to be ranked using the revised oversubscription criteria, leaving some children living in catchment without an offer of a place at their catchment school.

43. The school has provided me with an example of a child (child A) at a WLP feeder who lives out of catchment, but who would come under criterion (iii) of the 2024 arrangements. Child A lives 3.7 miles from their feeder primary school, 9.8 miles from Woldgate School, and 11 miles from their catchment secondary school. The trust explains that child A will now be able to benefit from attending their nearest secondary school and will be able to join their friends at secondary school.

44. However, the consequence of this will be that with a PAN of 208, another child might be displaced. The circumstances of that child will vary depending on the pattern of applications, so I asked the LA to model the application to the 2023 cohort of the original arrangements. Their executive summary explains that it is likely that all children who live within the catchment and meet the feeder school requirement would still be offered a place. However, some children living within the catchment but not meeting the feeder school requirement would be displaced as would a number of children living outside the catchment who attend non-trust feeders. Displaced children living within catchment could actually be living very close to Woldgate School.

45. In order to inform my decision about the fairness of the position of criterion (iii), I have compared the impact on child A with that on a displaced child living in catchment (child B). I note at this point that child B would have been ranked above child A under the 2023 criteria.

Table 2

	Child A (offered a place)	Child B (not offered a place)
Residence	Out of catchment	In catchment, but does not meet feeder school requirement
Distance to Woldgate School	9.8 miles	Variable, but could be less than 1 mile
Highly likely to be able to attend catchment secondary school as alternative to Woldgate?	Yes	No

Existing school transport to alternative school?	Yes	No but the LA would be likely to have to provide free transport as the child would not have been able to gain a place at their catchment school and may live more than 3 miles from the allocated school
Distance to nearest alternative school	11 miles	8 miles (e.g. to Market Weighton School from Pocklington)
Change in distance	Reduction of 11%	Increase - could be significant, for example 16x for student living 0.5 miles from Woldgate School
Impact on friendships under the arrangements	Able to attend with primary school friends	Will not be able to attend with primary school friends

46. From the above, I conclude that on balance, the disadvantage to a catchment child unable to attend the school outweighs the advantage that would accrue to an out of catchment WLP trust feeder child admitted under criterion (iii) of the 2024 arrangements. Within a catchment system a child who does not gain a place at their catchment school is in the difficult position of having no catchment priority at any of the alternative schools. Consequently that child will have a relatively low priority for alternative schools and lower chance of any parental preference for an alternative school being met. There is the potential for a very significant increase in journey time and, crucially, transport would be outside the existing school transport arrangements. Child A, on the other hand, if not admitted to the school would have a high priority for their local catchment school.

47. I therefore find that the position of criterion (iii) in the original arrangements is unfair. I uphold this aspect of the pre-variation objections.

48. However, that is not the end of the matter. The above finding relates to the original arrangements and the pre-variation objections. I will now consider whether the unfairness identified above will actually arise now that the PAN has been formally increased to 240.

49. The LA has provided a detailed breakdown of numbers in current Y6 and current Y5 as at the census date of January 2023. It is the current Y5 who are most important here as they are the children who will be starting at secondary school in September 2024, and it is those arrangements with which I am concerned.

Table 3

	Year 6 number on roll	of which currently resident in catchment	of which not currently resident in catchment	Year 5 number on roll	of which currently resident in catchment	of which not currently resident in catchment
Trust feeders	153	144	9	126	114	12
Non trust feeders	95	87	8	89	75	14
<i>Feeder subtotal</i>	248	231	17	215	189	26
% change				-13%	-8%	
Other	14	13	1	16	16	0
TOTAL	262	244	18	231	205	26
% change				-12%	-16%	

50. Following the offer process for entry in 2023, the Y6 numbers have translated into a projection of 233 admissions as follows:

Table 4

Criterion for entry in 2023	Number expected
EHCP naming the school	8*
(i) LAC / PLAC	1
(ii) Living in catchment	204
(iii) Sibling (out of catchment)	9
(iv) Feeder school since y3 (out of catchment)	3
(v) Distance	8

Still on waiting list but not offered	0
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*the trust states that these are living in catchment

51. Table 4 shows that in 2023, described by the LA as a relatively high birth year, all preferences for the school have been met (unless there was a higher preference which could also be met).

52. For entry in 2024, the number of children at feeder schools reduces from 248 to 215, a drop of 13%, and the number of children in catchment, including all those at the Catholic school, reduces from 244 to 205, a drop of 16%. Now that the PAN has been formally varied to 240, I find it highly unlikely that there will be any children living in catchment or any children at non-trust feeders who live out of catchment who will be unable to obtain a place at the school in 2024. I am therefore unable to find any unfairness in the post-variation arrangements, and I do not uphold this aspect of the post-variation objections.

53. This determination relates to the 2024 arrangements only, and this finding about fairness is based on an analysis of the actual number of children in the area, which shows a drop in overall numbers. It is possible that future events may change the picture for applications for entry in 2025. For example, more schools may join the WLP trust, numbers at trust and non-trust feeders may change, patterns of preferences from non-feeder schools may change in response to external drivers, and there may be moves in and out of the area. Any revisions to the arrangements as a result of this determination may also play a part. The admission authority will wish to keep the situation carefully under review when determining the arrangements for September 2025 to ensure that no unfairness of the sort identified above would be likely to occur.

The fairness of oversubscription criterion (ii)

54. This criterion is new for the 2024 arrangements and gives a high priority to children of members of staff.

55. It is perfectly lawful for an admission authority to give priority in its oversubscription criteria to children of members of staff subject to provisions of paragraphs 1.39 and 1.40 of the Code, although any such criterion needs also to be reasonable in order to satisfy paragraph 1.8 of the Code. I have therefore asked the school to provide me with a rationale for the new criterion.

56. The school tells me:

“The school is situated on the outskirts of the City of York and thirty minutes from Beverley. This means the majority of colleagues (teacher or support) could benefit from employment opportunities closer to their home, providing them with local childcare and schooling with less time commuting, while incurring lower additional costs. We believe, to recruit the best candidates it is important to provide childcare and education, within or close to the parents’ workplace.

This criterion has been placed high in the oversubscription order as it allows the school to recruit to roles in a highly competitive employment market, where recruitment is already challenging in subjects such as English, Science, Technology and others, that often attract a reduced field. The school recently needed to re-advertise such a role on three separate occasions to secure an appointment. Without this amendment the school believes recruitment to such specialist roles will ultimately impact greater upon rural schools leading to prospective candidates opting to work closer to home, a trend that is already evident. This will clearly lead to colleagues teaching out of specialism and ultimately some specialist subjects not been offered in rural schools. Our parents benefit, as we recruit from further afield securing the best candidates to a highly regarded school and our colleagues, as their own children attend are clearly invested as with other staff, in the success of the school, the quality of education and the holistic education offer provided. We believe, therefore, this admissions amendment is pragmatic and of benefit to our schools, employees and children.

It also ensures that colleagues can access the very best education for their child once they have worked at the school for the required two or more-year period or when they have been recruited to fill a vacant post at the school for which there is a demonstrable skill shortage. This change in the policy will allow colleagues to be able to collect their child from their own workplace at the end of the day, reducing the dependence and expense of childcare.

The school believes the number of places offered are minimal, do not in any way disadvantage children within the local catchment and ensure a broad balanced curriculum can continue to be taught by specialist highly qualified teachers with our support staff.”

57. There is nothing in this statement which I consider to be illogical or irrational and so I consider that the introduction of the new staff child criterion is reasonable.

58. In regard to where the criterion is positioned, one objector says “I would argue that catchment area, sibling and feeder school criteria should be higher priorities than members of staff, especially at a school where no evidence has been presented showing it has greater difficulty attracting applicants for jobs than other schools in the area. Although other secondary schools in the East Riding of Yorkshire have criteria giving a priority to members of staff, none of them gives that criterion as high a priority...”.

59. The objector is right in the sense that a higher priority for staff children leads to disadvantage for those in lower criteria. However, arguably that is the whole point of the staff child criterion in the first place. If, as the objector suggests, this criterion was placed below the catchment criterion, then, in the original arrangements, it is highly likely that the school would become oversubscribed before any places were allocated to children of staff members. This would frustrate the purpose of introducing the criterion in the first place. In other words, the most rational position for the criterion in the original arrangements is above the catchment criterion.

60. Under the varied arrangements, I can find no evidence that this criterion as currently positioned displaces a catchment child, a sibling, or a feeder school child. No unfairness arises and so I do not uphold this aspect of the objections.

Equalities legislation

61. A number of objectors raise concerns that arrangements are in breach of equalities legislation. I provide below a flavour of these:

“The new policy changes the oversubscription criteria to directly disadvantage all children from the catchment area who are from a Church of England background.”

“I believe it will also disadvantage many church schools and could be seen as discrimination.”

“I also believe this proposal to be discriminatory against faith schools, it is notable that all seven schools that will be adversely affected by the change in policy are C of E schools, these traditional village schools create friendship bonds between different age groups, that doubtless smooth the transition for those moving up to secondary school each year. Additionally, the removal of faith schools from the intake to Woldgate will, in time, harm the overall diversity of students entering the system.”

“None of the primary schools within the academy network have a religious background. In comparison, all the feeder schools outside the academy network are Church of England primary schools and, as such, lead their pupils in supporting Christian values. The proposed changes to Woldgate's acceptance policy places pupils attending these Church of England primary schools at a disadvantage to the pupils at the academy primary schools and so constitute indirect religious discrimination against a protected group (and, as such, breaches the equality legislation with which Woldgate's acceptance policy is required to comply under the Schools' Admission Code).”

62. The Diocese of York mention the possible impact on parents of children who might choose a Church of England school for their primary provision, even if it is out of catchment.

“There will be a number of parents who are specifically seeking a place in a Church of England school for their child(ren). Whilst the Church Schools serve those of all faiths and none, a policy such as this could impact disproportionately on people of the Christian faith. In essence, it creates a situation where parents are being forced to choose between sending their child to a school which reflects their faith and sending them to a school which secures their desired (and perhaps only feasible) secondary provision. This might also extend to those of other faiths who may prefer to send their child to a school with a religious designation due to the approach to faith taken in the school. Religion/belief is a protected characteristic under the Equalities Act and we note the Trust is subject to the public sector equality duty and must consciously consider and have due regard to that duty in taking decisions.”

63. It is important to note at this point that the protections offered by the Equality Act 2010 (the Act) apply to individuals and not institutions. This means that it is not possible to discriminate against a school with a religious character.

64. There is nothing in the arrangements which can be considered to be direct discrimination on the basis of any of the protected characteristics set out in the Act. Indeed, the arrangements quite properly make no reference to race, religion or any other such characteristic and do not take account of these in considering applications.

65. I turn next to indirect discrimination, which would exist if the arrangements treated all applicants the same but had the effect of placing a person with a protected characteristic at a disadvantage. Indirect discrimination is justifiable, and consequently lawful, if it is a proportionate means of achieving a legitimate aim. With this in mind, I have distilled this aspect of the objections into the following question: "Whilst all admission arrangements advantage some children and disadvantage other, is there anything in these arrangements which disadvantages a child on the basis of their faith?"

66. In considering the answer to this, I have taken into account the following:

- a. the seven non-trust Church of England feeder schools primarily serve their local communities. The catchment areas of these schools together with those of the WLP primaries make up the catchment area of Woldgate School. Four of these Church of England schools have no faith-based admission criterion and whilst the other three do have such a criterion, it is positioned below the residence criterion, so a child living in the catchment has higher priority than a child living outside catchment and seeking admission on the basis of the faith criterion;
- b. 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. In other words, there is no evidence that the distribution of religion or belief is significantly different amongst the parents and children who attend the non-trust feeders compared with those who attend the WLP trust feeders;
- c. whilst there is indeed an advantage to children attending trust feeder schools, which I have found to be reasonable and code compliant, there is nothing to suggest that children who are of the Christian faith are less likely to attend those schools than other children or, conversely, that children who are Christian are more likely to attend the Church of England schools.
- d. under the modelling data from the LA referred to earlier, which applied the 2024 criteria to the 2023 applications, it was not possible to predict exactly who would not get places. However, even with a PAN of 208, it was highly likely that all children living in the catchment who met the feeder school requirement would receive an offer, including all those at the Church of England feeder schools. With the increase in PAN it is even more likely that all such children would receive an offer. Any children from outside the Woldgate catchment at the Church of

England feeder schools who did not receive an offer, would still be highly likely to be able to attend their catchment secondary school, for which school transport would be provided if that school was more than three miles from the child's home address.

67. The Diocese of York comments that an effect of the new arrangements is that parents are being "forced" to decide between sending their children to a Church of England feeder and the opportunity to go to "a school which secures their desired (and perhaps only feasible) secondary provision". I have been presented with no evidence to support this assertion. Moreover:

- a. under the varied arrangements with the higher PAN any child living in catchment and attending any of the feeder schools is highly likely to gain a place;
- b. the catchment system in operation across the LA is highly likely to give a child living outside Woldgate school's catchment and attending a Church of England feeder school a place at their own catchment school provided they follow the guidance about preferences in the prospectus;
- c. if a school is oversubscribed then it is inevitable that some parents will not be able to have their preference met;
- d. an out of catchment child whose parent opts to send them to one of the named Church of England feeder schools from the start of Y3 is still in a more advantageous position than one who sends their child to a school that is not a feeder school. Their priority under the residence in catchment criterion for their own catchment secondary school does not depend on which primary school they attend, and they have a higher priority for Woldgate (criterion vi) than an out of catchment child who does not meet the feeder school requirement (criterion vii)

68. After considering these points, I do not find that the arrangements result in indirect discrimination on the basis of religion.

69. Additionally, now that the arrangements have been varied, I find that none of the points made by the objectors stand because it is highly unlikely that catchment children at non-trust schools will fail to obtain a place in 2024, and highly unlikely that non catchment children meeting the feeder school requirement at those schools will fail to obtain a place.

70. I therefore do not uphold this aspect of the objections.

71. As before, I stress that this determination relates to the 2024 arrangements only. It is possible that future events may change the picture so that it is different for applications for entry in 2025. The trust will need to have due regard to its equality duties when determining its admissions arrangements for 2025 and when implementing any revisions to the 2024 arrangements as a result of this determination. I note that even if the revised arrangements were to give rise to indirect discrimination, the question of justification would then arise. If

the arrangements could be shown by the trust to be a proportionate means of achieving a legitimate aim, they would not amount to unlawful discrimination.

Other matters

Admission of children with an EHCP

72. Paragraph 1.1 of the arrangements makes reference to “the Department for Education’s School Admissions Code and the relevant legislation and regulations.” Paragraph 1.7 of the arrangements says “The admission of children with an Education, Health and Care plan are covered by different admission regulations”. Paragraph 1.6 of the Code, reflecting the legislation, says “All children whose Education, Health and Care Plan names the school **must** be admitted”.

73. The arrangements go on to say “Following consultation with the Local Authority, if Woldgate School has been named, a place will be allocated for these children before considering other applications.” Whilst the LA consultation process is a legal requirement prior to a school being named in an EHCP, the current phrasing gives rise, in my view, to a risk that a parent of a child with an EHCP that names the school may infer incorrectly that there is an additional process of consultation needed for admission. This is not right. Once the school has been named the child must be admitted.

74. I therefore find that paragraph 1.1 of the arrangements is unclear and not compliant with paragraph 14 of the code.

The period for which the PAN applies

75. Paragraph 2.1 of the arrangements says that “the PAN remains in force until 31st July 2025, at the end of the year of entry.” I find that this is not clear, as 31 July is neither the end of Y7 nor the last day of term. The PAN applies to the whole of the normal year of entry, that is up to the last day before the start of term in the next school year.

Ranking of preferences within the oversubscription criteria

76. There is wording within each of the oversubscription criteria to explain how preferences will be ranked within that criterion. The wording for criteria (ii) to (vi) are similar so I will take as an example the wording in criterion (iv): “If applications exceed places in criterion (iv), then those children in criterion (i), (ii) and (iii) will have places; those in criterion (iv) will need to be prioritised in line with the remaining [sic] then Criterion (v), then Criterion (vi) and then Criterion (vii).” I asked the trust and the LA to comment on the clarity of the phrase “if applications exceed places”, and I now understand that it means (to paraphrase) “if the total number of applicants in this criterion and those above it exceeds the number of places available”. I consider that this may not be apparent to a parent looking at the arrangements and so I find that the repeated use of the phrase “if applications exceed places” renders paragraph 4.1 of the arrangements unclear and not compliant with paragraph 14 of the code.

Arrangements for in-year admissions

77. Paragraph 7.2 of the arrangements says “The school will maintain a current admission number for each year group. When a cohort of pupils progresses to a higher year group, the admission number previously determined for that year group remains in force and applicants can only normally be refused a place if the number on roll is equal to or greater than the admission number.” This is not compliant with the Code. The only lawful basis for refusing admission outside the normal year of entry is on the basis of prejudice as set out in paragraph 1.4 of the Code. This means that the PAN only applies to the relevant age group (Year 7 or Year 12) and that admission authorities may not refuse admission to other age groups on the grounds that they have already reached what was the PAN when that cohort joined, and indeed there is no PAN for those year groups. Admission authorities may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources.

78. The LA has provided some helpful background information which explains the use of “current admission number” as a tool for schools to regularly inform them of the number of children in Y8-11 above which prejudice may occur. Whilst it is for the trust to determine any revisions to its arrangements, I note that the LA has provided some suggestions which may assist the trust with revising paragraphs 7.1 – 7.4 of the arrangements in order to comply with paragraph 1.4 of the Code.

Feeder school terminology

79. The arrangements use the terms “named trust schools” and “feeder schools” to differentiate between two categories of schools that would both be defined as feeder schools under paragraph 1.15 of the Code. I find that the use of the phrase “feeder schools” in the arrangements to refer only to the latter category may cause confusion and therefore be unclear. The trust has accepted this point.

Feeder school attendance requirements

80. I now consider whether the requirement for children attending feeder schools to have done so since the start of year 3 in order to benefit from the feeder priorities is reasonable, and if so whether it is also fair.

81. The requirement is worded identically to that in the LA’s “standard criteria”. When I asked the LA for the rationale they said “...attendance at a named feeder school since the start of Y3...is supported by primary and junior schools. Also its continued use does not create a perverse incentive for a parent/carer seeking admission to a preferred secondary school to move their child to a school that is a named feeder school before the point of secondary school applications in order to gain an advantage over other applicants. Such a move would cause disruption and disadvantage to their child’s primary education, often late in years 5 and 6.”

82. The LA went on to say “The use of this definition serves our communities well and it supports stability and continuity of learning for pupils and schools in Key Stage 2.

Furthermore it minimises disadvantage in a large mostly rural local authority area of 957 square miles as in such a rural area we have a large number of rural primary schools that are small, remote from other schools and are vulnerable in terms of their continued financial viability that could only be harmed should less children choose to attend them in some year groups if moving to schools to gain an advantage for secondary school admissions.”

83. It also said “...we would note that the impact of this definition effects [sic] a very small number of applicants historically, given that it applies as a lower criterion only to those who do not live in the catchment area, without a sibling at the school, do not have an EHCP and are not looked after or previously looked after (all being higher criteria).”

84. I asked the trust for its rationale and it said “Following a request from schools within the Woldgate School catchment, this consideration was included due to parents opting to move house or move their child’s school, to secure a place at the secondary school of their choice. This impacted significantly upon our feeder schools, having a detrimental effect upon children’s learning as class sizes increased with feeder schools and also on schools outside of the catchment area, who found children not completing their education and facing significant upheaval that impacted upon the child’s wellbeing.”

85. In other correspondence the both the trust and LA tell me of the importance attached to students being able to attend school with their peer group.

86. The above paragraphs raise a number of issues as to whether the requirement is reasonable, in the sense of being logical and rational.

87. Firstly, I do not find it rational that moving to a named feeder school is described as “not completing their education”.

88. Secondly, it is difficult to reconcile the claim made that feeder schools do not want to admit children in certain year groups with the claims from some objectors who express worries about falling numbers at catchment feeder schools.

89. Thirdly, both the LA and the trust have made statements that are openly discouraging about parents moving their children to another primary school. I consider that this has the potential to undermine parental preference, the whole point of which is that parents are able to express preferences for where they wish their child to be educated, regardless of which year group they are in. This is made clear in the opening sentence of paragraph 2.23 of the Code under a heading “In-year admissions” which states “A parent can apply for a place for their child at any school, at any time.” As I have already said, the only basis for declining an in-year admission is on the grounds of prejudice and if there are surplus places in a school or region, parents are entitled to make use of them if they so wish.

90. Fourthly, the impact of the requirement is that it penalises children of parents who have exercised legitimate preference for an in-year admission after the start of Y3 at a feeder school. The outcomes for these children are shown in the following table:

Table 5

Group (my notation)	Circumstances	Attended since start of Y3	Joined after start of Y3
A	At a trust feeder, living in catchment	Placed in criterion (iii)	Placed in criterion (iv)
B	At a trust feeder, not living in catchment	Placed in criterion (iii)	Placed in criterion (vii)
C	At a non-trust feeder, living in catchment	Placed in criterion (iv)	Still in (iv) but ranked lower than similar child who has attended since Y3
D	At a non-trust feeder, not living in catchment	Placed in criterion (vi)	Placed in criterion (vii)

The above table shows that there are potentially some severe impacts of the requirement. Under the arrangements, a child in “Group B” who has attended their school since the start of Y3 is a high priority and in criterion (iii), but a similar child who joined the same school at a later date, even if by only a few days, would be in criterion (vii), assuming no siblings. The justification for having the new trust feeder school criterion is essentially that there are continuities of curriculum, assessment, pedagogy and experience which arise from attending a WLP trust feeder. If these factors are as strong as the trust contends, I do not see a rational argument that these benefits accrue to a student who has been educated within the trust since the start of Y3, but not to one who joins later, even if by only a short period of time.

91. Fifthly, this penalty applies to those who may have had to join a feeder school after the start of Y3 as a result of a house move. Families with children move around the country for all sorts of reasons, not all of which are predictable or planned, and in some cases a house move is essential for the safeguarding and wellbeing of a child. At this point the trust’s reasoning does not hold up. The trust has repeatedly in its communications stressed to me the importance of children being able to attend a secondary school with their peer group friends, but as explained in the previous paragraph, it has adopted a criterion that could prevent that from happening under certain circumstances to a child who, arguably, would have a high need for it.

92. Taking into account all of the above I find that the requirement for children at feeder schools to have attended since the beginning of Y3 is unreasonable and hence not compliant with paragraph 1.8 of the Code. In this case, I have not gone on to consider

fairness specifically, since the requirement now needs to be revised. It will be a matter for the trust to decide how this will be done in a way which does not lead to unfairness to a particular group or groups of children.

93. I also note that the requirement can cause confusion in references to children attending feeder schools. To illustrate this, table 6 is an extract from a more extensive table completed by the trust, taken from correspondence when I asked them to clarify the “guarantee” in the March letter for admission in 2024 for various groups of children:

Table 6

Description	Guarantee a place? (Yes / No)
Children living outside of the catchment area who attend a WLP trust feeder and have not done so since the start of Y3	“Yes”
Children living outside the catchment area who attend a non-trust feeder and have done so since the start of Y3	“Yes* (*This would be dependent upon the number of places available at the school, although the current PAN does allow for these admissions).”

From table 6, it would appear that the trust is of the view that the oversubscription criteria give a higher priority to a child in the first group than the second. However, under the arrangements, this is not necessarily the case. Both children are in category (vii) and will be ranked according to distance, and so any guarantee to children in the first group would have to be conditional on numbers as well. I use this illustration to suggest that if an admission authority is not always able to communicate accurately the effects of its arrangements, then it is unlikely that parents will be able to “understand easily how places...will be allocated” as required by paragraph 14 of the Code.

Summary of Findings

94. The arrangements as originally determined were unclear because the PAN was unreasonable. The order of some of the oversubscription criteria in the original arrangements is not fair, as any advantage to non-catchment children at WLP trust feeder schools is outweighed by the potential disadvantage to some children living in the catchment area who will face a much more difficult journey to school. However, the variation to the arrangements has already remedied the unreasonableness and lack of clarity in relation to the PAN and has removed any potential unfairness arising from the order of the oversubscription criteria. The division of the feeder schools into two categories (trust feeders and non-trust feeders) is reasonable. The position and wording of the criterion for children of staff members is compliant with the code. I do not find any breaches of equalities legislation. I partially uphold the objections.

95. There are several other aspects of the arrangements that must be revised. These are:
- a. the wording for admission of children with an EHCP that names the school;
 - b. the wording for the period for which the PAN applies;
 - c. some wording within oversubscription criteria (ii) to (vi);
 - d. the arrangements for in-year admissions;
 - e. the definition of feeder schools; and
 - f. the requirement for children from feeder schools to have attended those feeder schools since the start of Y3.

Determination

96. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements determined for September 2024 by the Wolds Learning Partnership for Woldgate School and Sixth Form College in the East Riding of Yorkshire.

97. 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.

98. 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: 13 July 2023

Signed:

Schools Adjudicator: Clive Sentance