



## Determination

|                             |  |
|-----------------------------|--|
| <b>Case reference:</b>      | <b>ADA4303</b>   |
| <b>Objector:</b>            | <b>A parent</b>  |
| <b>Admission authority:</b> | <b>The Governing Body for Sale High School, Trafford</b> |
| <b>Date of decision:</b>    | <b>23 September 2024</b>                                 |

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Governing Body for Sale High School, Trafford.**

**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 the time scales set out in this determination.**

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent (the objector), about the admission arrangements (the arrangements) for Sale High School (the school), a foundation school for children aged 11 to 16 for September 2025. The objection is to the level of priority given in the oversubscription criteria to siblings who do not live in the catchment area and to whether the catchment area is clear, fair and reasonable.

2. The local authority for the area in which the school is located is Trafford Council (the local authority). The local authority is a party to this objection. Other parties to the objection are the objector and the school.

## Jurisdiction

3. I have noted that the arrangements were determined under section 88C of the Act by a committee of the governing body on 16 January 2024 before the period of consultation on the arrangements ended on 31 January 2024. I have considered whether this makes the determination of the arrangements invalid. Determining the arrangements on 16 January 2024 effectively curtailed the consultation period. It is possible for admission arrangements which conform with the Code to be determined after a flawed consultation process and for admission arrangements which fail to conform with the Code to be determined after a flawless consultation. The objection does not concern the consultation process and my power under section 88I(5) of the Act to consider aspects of admission arrangements not raised by an objector does not extend to consultation on the arrangements. Consequently, I have accepted that these arrangements have been determined by the governing body.

4. The objector submitted her objection to these determined arrangements on 13 April 2024. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## Procedure

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 governing body at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 13 April 2024;
- d. the joint responses from the school and the local authority to the objection and to my subsequent enquiries;
- e. maps of the area identifying relevant schools, postcodes and local authority boundaries;
- f. information available on the websites of the local authority and the Department for Education (DfE).

## The Objection

7. The objector said that she disagreed with the level of priority given to siblings who live outside of the catchment area. She cited the difficulties experienced by families who have children in different schools. Paragraph 14 of the Code requires that "admission authorities **must** ensure that the practices and the criteria used to decide the allocation of

places are fair". Paragraph 1.8 of the Code requires that "Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair".

8. The second part of the objection was to the catchment area itself which the objector said should "include an area that is close to the school and not postcodes that are miles away". In addition to meeting the requirements of paragraphs 1.4 and 1.8 of the Code quoted above, paragraph 1.14 says, "Catchment areas **must** be designed so that they are reasonable and clearly defined."

## Other Matters

9. When I considered the arrangements as a whole it appeared to me that they did not conform with the Code in the following ways:

- a. The first oversubscription criterion did not appear to meet the requirements of paragraph 1.7 of the Code because the definition of looked after and previously looked after children was not as in the Code.
- b. The arrangements stated that if an applicant moves home between the date of allocation and 1 September, the offer of a place may be withdrawn. Paragraph 2.13 of the Code says: "An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application". The act of moving home between 1 March and 1 September may not be fraudulent or intentionally misleading, indeed it could be outside of the family's control.
- c. The arrangements may not be clear as required by the Code because information about waiting lists is repeated and appears not to meet the requirements of paragraph 2.15 of the Code to state: "that each added child will require the list to be ranked again in line with the published oversubscription criteria" and for waiting lists to be held until 31 December.

10. When I raised these matters with the school it undertook to revise the arrangements to address these matters. I make no comment on the proposed revisions sent to me as I have no evidence that they have been formally determined by the governing body and my jurisdiction is for determined arrangements only. However, I will interpret the school's response as accepting that the arrangements do not conform with the Code in the ways I have set out and I will not refer to these matters again in this determination.

## Background

11. The school is situated, as its name suggests, in Sale, Greater Manchester. The DfE database states its capacity as 1050 with 1049 pupils on roll. In May 2019, Ofsted found the school to be "Good". The published admission number (PAN) for 2025 is 210 and the oversubscription criteria are:

1. 'Looked after Children' both currently and previously (as defined in the Education Act 2002 – a. Admissions)
2. Siblings: children who have brothers and sisters enrolled at this school at the time of admission and live within the priority catchment area. Siblings are defined as half/ step/adopted/foster brothers or sisters, and any other children who are living at the same address as part of the same family unit.
3. All other applicants living within the priority catchment area, in order of Trafford residents within M33 and M23, followed by WA14 and WA15, followed by M32.
4. Siblings: All other children who have brothers and sisters enrolled at this school at the time of admission who live outside the priority catchment area.
5. All other applicants outside the catchment area.

12. The catchment area is also described elsewhere in the arrangements as “Trafford Council residents in postcodes within in M33 and M23, followed by WA14 and WA15, followed by M32.” Priority within each criterion is given to children living closest to the school.

## Consideration of Case

### The priority given to siblings

13. The objector outlined the difficulties which families face when they have children at different schools. In particular, she mentioned the difficulty of two working parents having to be in two places at once.

14. The arrangements give priority in the second oversubscription criterion to siblings of children already attending the school who live in the catchment area while siblings of children already attending the school who do not live in the catchment area meet the fourth criterion with lower priority than children who live in the catchment area but do not have siblings at the school. From data provided by the school, and that found on the local authority's website it can be seen that in the last two years the school has become oversubscribed before all catchment area children have been offered a place so no siblings living outside of the catchment area were offered places.

15. The local authority's report “School Place Planning and Sufficiency” presented to the Children and Young People's Scrutiny Committee of the local authority dated 23 January 2024 (found on the local authority's website) shows that the cohort of children due to transfer to secondary school in 2025 from postcodes covered by the catchment area is similar to that in 2024 and so it is unlikely that it will be possible to offer places to siblings who live outside the catchment area once again in 2025.

16. Where a family has children in more than one school year group, there will be periods when children will be in different schools, some in primary school and some in

secondary school. Families will have strategies in place to manage this. These strategies will be simplified as the increasing maturity of the older children allows them to travel to secondary school independently.

17. If all siblings were given the same level of priority, then more children living in the catchment area would not be able to get places at the school. These children would have to find places at other schools; schools where they do not live in the catchment area. Younger siblings of these displaced children could then find themselves in the same position as the children of concern to the objector that is, not living in the catchment area of the school attended by the older sibling and so having low priority for it. Removing what is perceived by the objector as an unfairness to one group of children could lead to a similar unfairness to another group of children.

18. In the context of this school and its catchment area which I discuss below, I am not convinced that any great unfairness arises if siblings cannot attend the school. In this urban area, the DfE database "Get Information About Schools" (GIAS) shows that there are 14 other non-selective secondary schools within three miles of the school and 11 within 3 miles of the objector's home. These are distances which I would expect most children of secondary school age to travel independently where there are good footpaths and a public transport system.

19. There may be a family whose circumstances make an exceptional and compelling case that siblings must be in the same school. For these families, the independent appeal process can consider whether these circumstances justify placing the younger child at the school. For these reasons, I do not uphold this part of the objection.

### The catchment area

20. The second part of the objection was to the catchment area itself which the objector said should "include an area that is close to the school and not postcodes that are miles away". Specifically, she referred to "the postcodes in the WA bracket" saying these "extend to 4 miles away".

21. Paragraph 14 of the Code requires that "admission authorities must ensure that the practices and the criteria used to decide the allocation of places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places will be allocated." and paragraph 1.8 requires that "Oversubscription criteria must be reasonable, clear, objective, procedurally fair". In addition, paragraph 1.14 says, "Catchment areas must be designed so that they are reasonable and clearly defined." I must also consider the footnote to paragraph 1.14 which says, "R v Greenwich London Borough Council, ex parte John Ball Primary School (1989) 88 LGR 589 [1990] Fam Law 469 held that pupils should not be discriminated against in relation to admission to the school simply because they reside outside the local authority area in which the school is situated." This is commonly known as the Greenwich Judgement.

22. The arrangements state “The priority catchment area for Sale High School is Trafford Council residents in postcodes within in M33 and M23, followed by WA14 and WA15, followed by M32. We also welcome children from other postcodes, when there are vacancies.” The catchment area is also defined in the third oversubscription criterion, “All other applicants living within the priority catchment area, in order of Trafford Council residents in postcodes within in M33 and M23, followed by WA14 and WA15, followed by M32.” Previously, for admission in 2024, the catchment area was defined as “The priority catchment area for Sale High School is all postcode areas within in M33, WA14, WA15, M32. We also welcome children from postcode M23 and from other postcodes, when there are vacancies.”

23. I asked the school for clarification of the priority within the catchment area for 2025. I was told, “There is a single catchment area but within the catchment area there are different levels of priority. Firstly, M33 and M23 postcodes within Trafford, then WA14 and WA15 postcodes within Trafford and finally M32 postcodes.”

24. I asked the school to provide a map of the catchment area; one was not available. The Code does not require a map of the catchment area, it requires catchment areas to be clearly defined within oversubscription criteria so that parents can understand easily how places will be allocated. Parents will know their postcode and to which local authority they pay their council tax. Therefore, the requirement for the catchment area to be clear to parents could be met using these two pieces of information. However, without a map, it is more difficult to assess the requirement for a catchment area to be reasonable.

25. I consulted maps available online showing the location of the school, local authority boundaries and the postcodes referred to in the arrangements. From these sources I ascertained that the catchment area extends approximately 13 kilometres from north to south and nine kilometres from east to west at its widest point. The school’s grounds abut the boundary between the local authority and the neighbouring Manchester City Council and also abut the boundary between postcode M33, in which the school lies and postcode M23. This places the school on the eastern edge of its catchment area and about midway from north to south.

26. I also ascertained the following information about the postcodes referred to in the definition of the catchment area and combined this with data found in the local authority’s report “School Place Planning and Sufficiency” referred to above.

| <b>Postcode</b> | <b>Intersection with Trafford</b>  | <b>Number of children in Trafford primary schools in the postcode in the year group due to transfer to secondary school in 2025</b> |
|-----------------|--|---|
| M33             | An urban area mainly in Trafford with a very small area in Manchester.   | 949   |
| M23             | This urban postcode which lies to the south east of M33. A small part of this postcode is in Trafford, it is mainly in Manchester.   | No primary schools in Trafford have this postcode.  |
| WA14 and WA15   | These postcodes form the southern part of the catchment area. They extend into East Cheshire and Manchester. The parts of these postcodes which are in Trafford are mainly urban. These postcodes are not part of the local authority planning area in which the school lies.      | 981   |
| M32             | This forms the northern part of the catchment area. Entirely within Trafford most of this postcode is separated from the rest of the catchment area by the M60 and the River Mersey. This postcode is also not part of the local authority planning area in which the school lies. | 665   |

27. For September 2024, I was told that the point of oversubscription was reached in the third criterion, the catchment area, at a distance of 1.43 miles (2.3 kilometres) from the school. In that year postcode M23 was not in the catchment area and there was no different priority between the postcodes in it. If a circle of this radius is constructed centred on the school, it does not cover all of M33, none of WA14, a small part of WA15 and none of M32.

28. For 2025, the school is offering 210 places and the place planning data quoted above show there are about 2500 children due to transfer from primary schools in its catchment area. The changed catchment area will give most children living in M33 (not those living in Manchester) priority and a small number of children living in the intersection of M23 and Trafford priority over any children living in WA14 reducing the number admitted from this postcode. It seemed unlikely to me that any child would be admitted from postcodes WA15 or M32 in 2025.

29. Therefore, on 23 July 2024 I asked the school how it considered its catchment area to be reasonable given the mismatch between the number of children living in it and the number of school places available. I also asked why parts of M23 were not included in the catchment area, although they were much closer to the school than other parts of the catchment area but in a different local authority area. I received a joint response from the school and the local authority on 30 August 2024.

30. This response described the difficulties in school place planning in Trafford caused by the effect of selective, single sex and faith schools which attract applicants from outside the local authority with some children travelling “over 10 miles” to them. The response also referred to migration leading to growth in the number of primary school pupils who are now transferring to secondary schools.

31. The use of postcodes to define the catchment area was justified in the response as “although they do not denote administrative boundaries, they do represent established reference points that can be instantly recognised by any individual, wherever they reside.” The response also set out the history of the catchment area over the last 10 years.

| <b>Year</b> | <b>Catchment changes</b>  |
|-------------|---|
| 2015        | M33, WA14 and WA15, regardless of local authority area  |
| 2019        | M32 postcodes added because at that time the school was not oversubscribed. The intention was “to provide additional choice for families in Stretford”.   |
| 2025        | Prioritisation of postcodes within the catchment introduced.<br><br>M23 postcodes within the Sale place planning area included.<br><br>Priority for Trafford residents introduced within postcodes. |

32. The response then set out how the local authority calculates the need for school places in each of the postcodes. This is on the basis of three children for each 100 properties. This calculation is what I would expect as it is similar to calculations used in other local authorities. The proportion of children expected to take up places at selective schools from each postcode is then deducted leaving the following number of non-selective places required in each postcode.

| <b>Postcode</b> | <b>Non-selective places needed</b> | <b>Comments</b>  |
|-----------------|------------------------------------|--|
| M33             | 547                                | Includes about seven children from 350 addresses outside Trafford. |



| Postcode      | Non-selective places needed | Comments  |
|---------------|-----------------------------|---|
| WA14 and WA15 | 590                         | Includes about 40 children from 1,250 addresses outside Trafford. |
| M32           | 341                         | Entirely in Trafford.   |
| M23           | 3                           | Calculation based on 121 residential addresses in Trafford.       |

33. Once an allowance is made for the selective schools the number of children living in the catchment area who might want a place at the school is reduced from the figures in the place planning document. However, in the Sale place planning area (which consists of M33 plus the 121 Trafford addresses in M23) alone the requirement is greater than the combined PAN (464) of the school and the other non-selective school in that planning area. This other school does not use a catchment area, it bases priority for most places on the distance of the child's home to the school.

34. The next part of the response explained the reason for the inclusion for 2025 of the relatively small number of addresses in M23 postcode that were in Trafford. It said that prior to 2020 the school was not oversubscribed and so children from this area would have been offered places at the school. It said, "The change in catchment area was to make sure that these few families, for whom Trafford has a statutory duty to secure a school place, were not disadvantaged if they were to request Sale High School as a preference." It was considered that the very small number of children in this area "would not have a significant impact on the allocation of places and would support the LA to meet its sufficiency duty for its residents." It was pointed out that if more of M23 was included in the catchment area children from this area would displace children from postcodes traditionally given priority for places at the school, particularly those living in M23. The number of children given increased priority from this change is estimated above as three. This would be offset by the estimated seven children living in M33 who did not live in Trafford.

35. The response then explained why postcodes within the catchment area were given different priorities for 2025. The explanation was that in 2022, not all children living in M33 could be offered a place at the school leading to children travelling to Urmston and Partington described as "considerable distances from the M33 postcode area". I was informed that 21 children living in M33 were not offered places at the school on national offer day in 2024.

36. Prioritisation of postcodes for 2025 would lead to about 20 children living in the west of M33 being offered places ahead of children in the north of WA14 or WA15. I have chosen representative postcodes (WA15 6BD and M33 5LN) picked at random in each of these areas and used GIAS to identify non-selective secondary schools within a three mile radius of each. In each case nine such schools were identified, a different nine for each,

and in each case the school was not the closest school to the chosen postcode. I do not think that these changes lead to those children with reduced priority for places at the school being a worse position than that in which those given increased priority were previously.

37. The next part of the response concerned the new priority for Trafford residents. It stated, "All postcodes within M33, WA14 and WA15, regardless of the local authority area they are in, have been included in the catchment area for Sale High School between 2015 and 2024. When the prioritisation of postcodes within the catchment area was introduced for 2025, by adding the very small number of postcodes in M23 that are in Trafford into the first prioritisation level within the catchment area, the prioritisation became 'Trafford residents within M33 and M23, followed by WA14 and WA15, followed by M32'. On reflection now, it is clear this suggests only Trafford residents within each of these postcode sectors are in the catchment area." This contradicts the response I noted in paragraph 23 to my earlier request to clarify the catchment area which was, "There is a single catchment area but within the catchment area there are different levels of priority. Firstly, M33 and M23 postcodes within Trafford, then WA14 and WA15 postcodes within Trafford and finally M32 postcodes." This first response had led me to begin considering whether the catchment area conformed with the Greenwich Judgement.

38. The second response continued, "The result of this is the first level of priority is for Trafford residents in M33, as well as the very small number of Trafford residents in M23. The local authority and the governing body of the school are in agreement that it does not want to disadvantage the small number of families in the M33 area who live in Manchester, as this group have always been afforded priority historically and been included in the catchment area. We also believe that additional clarification needs to be added to make it clear that the second priority postcode areas WA14 and WA15 include all residents, not just Trafford residents, which could be inferred from the way it is currently worded."

39. These sentences reassure me that the catchment area is in line with the requirements referred to in the Greenwich Judgement, however, the contradiction in the two joint responses to me prove that the catchment area is not clearly defined and so does not conform with paragraph 1.14 of the Code. Indeed, the second response states that clarification is required. Without a clear statement of the catchment area, parents will not be able to understand easily how places will be allocated as required by paragraph 14 of the Code.

40. With the above clarification, I now understand the catchment area consists of four whole postcodes (M33, WA14, WA15 and M32) and a very small part of a fifth (M23). In 2024 oversubscription was reached in the third oversubscription criterion within the catchment area at a distance of 1.43 miles (2.3 kilometres) from the school. This area does not include any of M23 or WA14, and very little of WA15. I have found that the prioritisation of all M33 addresses over any address in the other three postcodes is not unfair. However, this new prioritisation is likely to reduce the number of children offered places at the school from the other three postcodes further. While parents cannot be guaranteed a place at a school if they live in its catchment area, they will normally have the expectation that they

would have high priority for places. In this case, unless there is already a sibling at the school, children living in three quarters of the catchment area are unlikely to be offered places. I find this to be unreasonable and so the catchment area does not conform with paragraph 1.14 of the Code. I therefore uphold the part of the objection concerning the catchment area.

## Summary of Findings

41. I do not uphold the part of the objection concerning the priority given to siblings who do not live in the catchment area. In the circumstances of this school, doing so would displace children from within the catchment area to other schools and their younger siblings could then find themselves in the same position as the children of concern to the objector. Also, this is an urban area where there are many schools which a child of secondary school age could travel to independently without requiring parents to escort them. There are safety nets available should a child's circumstances make it essential for them to attend a school with older siblings.

42. I do uphold the part of the objection concerning the catchment area. Firstly, the description of the catchment area is not clear. Secondly, the population of the catchment area is so large that three quarters of the children living it are unlikely to be offered places if they applied which I find to be unreasonable.

43. I find that the arrangements do not conform with the Code in three other ways which the school has undertaken to address.

44. 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." Given that this determination is being published in the second half of September and applications for secondary school places must be made before 31 October 2024, I have considered the date by when these arrangements must be revised.

45. Making changes to a catchment area is best done after thorough consultation and I have noted that a review of the catchment area is already planned for 2026. I therefore require the catchment area to be revised by 28 February 2025. In the meantime, parents must be able to understand what the catchment area is for 2025 when they apply for places, I therefore require that the arrangements are revised to make the catchment area for 2025 clear within two weeks of the publication of this determination. I leave the admission authority two months to address the other matters.

## Determination

46. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Governing Body for Sale High School, Trafford.

47. 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.

48. 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 the time scales set out in this determination.

Dated: 23 September 2024

Signed:

Schools Adjudicator: Phil Whiffing