



Office of
the Schools
Adjudicator

DETERMINATION

Case references: ADA 2925, 2926 and 2941

Referrers: Two members of the public and Woolmer Green Parish Council

Admission Authority: The academy trust for Monk's Walk School, Welwyn Garden City, Hertfordshire

Date of decision: 15 October 2015

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for Monk's Walk School determined by the Board of Governors.

I determine that there are matters as set out in this determination that do not conform with the requirements relating to admission arrangements.

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 arrangements within a specified timescale and in this case the revisions must be made within two months of the date of this determination.

The referral

1. Three referrals were made to the Adjudicator by two members of the public and the clerk on behalf of Woolmer Green Parish Council (the referrers), about the admission arrangements (the arrangements) for September 2016 for Monk's Walk School (the school), a co-educational academy school for students aged 11 to 18. The local authority (LA) for the area is Hertfordshire County Council. The three referrals were made as objections concerning the perceived unfairness in the admission arrangements for some children who live in Woolmer Green.

Jurisdiction

2. The terms of the funding agreement between the academy trust, in this case Monk's Walk School Governing Body, and the Secretary of State for Education requires that the admissions policy and

arrangements for the academy school are in accordance with admissions law as it applies to maintained schools.

3. On 30 June 2015, the referrers submitted their “objections” to the school’s 2016 admission arrangements that were published on the school’s website. When I investigated I found that the arrangements for 2016 had not been determined by the governing body and so at that time I did not have jurisdiction to consider the matters raised. The 2016 arrangements were subsequently determined on 15 September 2015 by the school’s governing body. I have therefore used my power under section 88I(5) of the School Standards and Framework Act 1998 (the Act) to consider the matters brought to my attention within these referrals.

4. I am satisfied that these matters raised are within my jurisdiction under section 88I of the Act. I have also used my power under this section 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). The documents I have considered in reaching my decision include:

- a. the referrers’ emails and forms of objection dated 30 June 2015 and subsequent correspondence;
- b. the school’s response to the referrals and supporting documents;
- c. the LA’s comments on the referrals and supporting documents;
- d. the LA’s composite prospectus for parents seeking admission to schools in the area in September 2016;
- e. a map of the area showing the location of Woolmer Green parish and the secondary schools in the surrounding area;
- a. the minutes of the meeting of the school’s governing body held on 15 September 2015 when the governing body determined the arrangements for 2016; and
- f. a copy of the determined arrangements.

The objection

6. The three referrals raise concerns that the requirements within paragraphs 1.4 and 1.8 of the Code for admission arrangements to “*objective and fair*” are being breached. Woolmer Green is a rural parish in Hertfordshire and the referrals are about the perceived unfairness of the admission arrangements for Monk’s Walk School. The first concern is that although Woolmer Green parish is included within the priority area for the school, some children in the parish live closer to another school that is outside the priority area and so under criterion 4 of the

arrangements do not have priority for Monk's Walk School despite living in the priority area. The second concern is that Woolmer Green is one of the more distant parishes from the school. When the distance oversubscription criteria are applied, those furthest from the school are given lowest priority and as a result children living in Woolmer Green may not be allocated a place while those who live closer to the school received a place and this is considered to be unfair.

Other matters

7. When I reviewed the arrangements as a whole I found some matters that do not comply with the Code. I raised these with the school, the school responded positively and has undertaken to review its arrangements and make the necessary amendments without delay. The matters raised and the actions agreed by the school are set out below:

- a. The school has not complied with paragraph 1.46 of the Code that requires it to have determined its arrangements before the 15 April 2015. The school has acknowledged this oversight and agreed to ensure that arrangements in future years are determined by the earlier date of 28 February as required by the Code.
- b. The arrangements for the sixth form are set out separately as part of a joint sixth form provision and do not include the published admission number (PAN). The school has agreed to include the sixth form PAN of 250 in its arrangements.
- c. The school will clarify in its arrangements that children with a statement or an education or health care (EHC) plan will be admitted within the school's PAN as this was unclear.
- d. The school will set out the evidence that it requires to support the medical or social needs oversubscription criterion that is not defined within the arrangements.
- e. The school will add a map to its arrangements to define the priority area that it uses. The priority area in current use is the one that had been defined by the LA when it was the admissions authority for this school. In constructing the map the school should consider the comments made later in this determination.
- f. The school will include in the arrangements the process for requesting admissions out of the normal age group which is missing from the determined arrangements.

Background

8. The school became an academy in 2012 and is an all ability 11 – 18 specialist science comprehensive school. The school was inspected by Ofsted in June 2014 and was judged to be a good school. The school has continued to use the admission arrangements that it used when it was a community school. These arrangements are now determined by the governing body of the school rather than by the LA. The school has a PAN of 226 and in recent years has been oversubscribed.

9. The oversubscription criteria are as follows:

1. Children who are looked after and children who have been previously looked after.
2. Medical or social needs.
3. Siblings: Children who, at the closing date for applications, have a brother or sister currently attending Monk's Walk School in Years 7-12.
4. Children who live in the priority area and for whom it is their nearest Hertfordshire maintained school or academy that is non-faith, co-educational, and non-partially selective. The priority area consists of the following parishes and areas: Ayot St Peter, Codicote, Essendon, Hatfield, North Mymms South Mymms, Potters Bar, Welwyn Garden City, Welwyn and Woolmer Green.
5. Children who live in the priority area who live nearest the School.
6. Children living outside the priority area who live nearest the School.

10. The LA has provided the following information about applications from the Woolmer Green Parish and St Michael's Woolmer Green Primary School in 2015.

19 children living in the parish of Woolmer Green made secondary transfer applications. Of those 19:

- 10 ranked Monks Walk school but were allocated a higher preference school (6 different schools in 3 towns)
- 5 were allocated a place at Monk's Walk School
- 4 ranked Monks Walk School but were allocated a lower preference school:
 - 1 to Richard Hale (a single sex school)
 - 3 to Barnwell (their nearest school in Stevenage)

23 children attending St Michael's Woolmer Green Primary School in 2015 made a secondary transfer application. Of those 23:

- 19 applied to Monk's Walk school:
 - 12 were allocated a higher preference school
 - 6 were allocated a place at Monk's Walk School
 - 1 was allocated a lower preference (Marriotts School, their 2nd preference)

Consideration of Factors

11. The referrals make similar points concerning the admission arrangements for the school. The first concern is that although Woolmer Green parish is included within the priority area for the school, some

children in the parish live closer to another school that is outside the priority area and so do not have priority for Monk's Walk School under criterion four of the arrangements despite living in the priority area. The second concern is that Woolmer Green is one of the more distant parishes from the school. When the distance oversubscription criteria are applied, those furthest from the school are given lowest priority and as a result children living in Woolmer Green may not be allocated a place at Monk's Walk School.

12. The point is made that these criteria were used when the school was a community school and that other schools in the area use the same LA designed criteria and the LA was responsible for establishing the priority areas. The referrers argue that even though this school is now an academy, the LA should retain some responsibility for overseeing admission arrangements across its area. The comment is made that *"there needs to be some kind of process whereby the LEA is required to ensure the very fairness and reasonableness as required by the School Admissions Code and to deal with "perverse results". "*

13. In this case the perverse result referred to is that children living in this parish are about 4 miles from their nearest schools and that they are more or less equidistant between two schools. One of these schools is oversubscribed and one is undersubscribed. The parish is included in the priority area for the oversubscribed school which is Monk's Walk School. Some children in the parish live nearer the alternative school, which is not in the priority area. The argument is that it is unfair that these children cannot apply for any school under criterion four because their nearest school is not in the priority area. They obtain a place at the alternative school because it is undersubscribed and so it does not need to use its oversubscription criteria.

14. The referrers consider that this perceived unfairness is then made more unfair because children living in the parish are at the greatest distance from the school when the distance criterion is applied. The referrers assert that this is unfair because children in that area will always be chosen after children who live closer and that this is not therefore a fair process.

15. The LA responded to these comments by saying that the combined use of named "priority areas" and the "nearest school" rule have been in place in Hertfordshire since 2004. During that period of twelve years these arrangements have been used to allocate approximately 9,000 places in the Woolmer Green Council/Hatfield priority area and well over 50,000 places across the county.

16. The LA said that the priority areas and "nearest" school arrangements were introduced to improve transparency for parents and Using priority areas increased parental understanding of their likelihood of gaining a place at a particular school. The "nearest school" replaced an "alternative extra journey rule" which many parents found difficult to understand. One of the reasons for the use of a "nearest school" rule,

rather than a simple home-school distance rule, was to safeguard applications from rural communities. By identifying a child's nearest school (regardless of distance) children from surrounding villages would be prioritised for admission above children, for example living within a town, with a "nearer" school.

17. The LA said that in recent years as schools became academies, some chose to amend their admission arrangements. Others have chosen not to do so because they consider that the existing arrangements work well, are generally well understood by the parent population and serve the local community.

18. The LA said that it recognised that there are some pupils living in the parish of Woolmer Green within one priority area but with another school as their "nearest school". All of these children were offered a place at a ranked school and in its view this does not appear to be a "perverse outcome".

19. The LA said that parents are able to check their home to school distances and priority areas prior to making an application by using the LA's online "find your nearest school" service. This system allows parents to enter their address and it shows the distance to their nearest schools, and whether or not these schools are in a priority area or not. Using this information parents can make informed preferences for schools.

20. The school responded with the comment that although it was now an admission authority and could determine its own admission arrangements, it had made the decision to continue with the existing arrangements established by the LA as there was no reason to change them.

21. I have considered all the points made. The main argument about fairness comes down to three facts. The first is that Woolmer Green is in the priority area for a group of six different schools and the closest of these is about four miles away from the parish. The second is that some houses in the parish are closer to a school that is not in the priority area. The third is that Woolmer Green is one of the more distant parishes from the school.

22. Before I consider fairness, one of the referrers commented that the LA should take an overview and ensure that all the admission arrangements in an area fit together. In its response, the LA rightly states that it cannot do this as the schools that are admissions authorities may set their own arrangements as they see fit, as long as they comply with the Code.

23. Paragraph 14 of the Code says that "*parents should be able to look at a set of admission arrangements and understand easily how places for that school will be allocated.*" The arrangements are complicated by the use of the priority area and the nearest school criterion, but the use of the

LA's "find your nearest school" tool does enable parents to see whether or not they will be considered under criterion 4 or criterion 5 of the school's oversubscription criteria. I consider that these arrangements do satisfy this aspect of the Code but comment below how the arrangements could be made easier for parents to understand. The same paragraph of the Code requires arrangements to be "*fair, clear and objective*". I am satisfied that the arrangements are set out clearly and the measures used to determine priority are objective as they are based on straight line distance. In these respects therefore the arrangements comply with the Code.

24. I now consider whether or not the arrangements are fair. An argument was made in one of the referrals that in order to be fair, all the children in the parish should be treated the same. However, I reject this argument on the grounds that each application is treated as an individual application and the purpose of oversubscription criteria is to prioritise between applicants so as to allocate a limited number of places. In this case distance is being used to determine the order of priority and the Code permits this.

25. It was then argued that the arrangements are unfair for those children who live in the priority area for the school, but for whom their nearest school is in a different priority area. They are unable to apply for any of the schools in the priority area as their nearest school and if they apply to their nearest school they are not applying within the priority area and will not have priority there because they do not live in the priority area of their nearest school. Some households in the parish of Woolmer Green come into this category which is the subject of this referral.

26. In my view it is not necessary for all the households in the parish to have priority for Monk's Walk School but when a parent can read that Woolmer Green parish is in the priority area for the schools in the area then it is a reasonable expectation that they will have some priority for one of the schools in the priority area. However, as has previously been discussed there is a group of families near the boundary of the priority area for whom this is not the case. Monk's Walk School is oversubscribed and if an applicant is not considered under the priority area and nearest school criterion then they are unlikely to be allocated a place. This is because the next criterion is distance from school within the priority area and the parish is one of the more distant parishes. I acknowledge that parents can use the LA's "find my nearest school" tool to establish their nearest school, but in my view, the school should publish a map that defines the area within which families would be considered under criterion 4 of the arrangements. This would highlight the mismatch between this area and the priority area and allow parents to have a better understanding of this anomaly and help the school to consider if it wishes to address this in the future.

27. The question is whether these families are being disadvantaged by the criteria that are being applied. I have already concluded that I do not think it is unfair if some children in the area are allocated places in the

school and others are not where distance has been used as the criterion. In this case, some families have the ability to apply for a school as their nearest school in a priority area and be considered under criterion 4 while others do not. At present the nearest school for this group of families is undersubscribed so they can gain a place at their nearest school if they apply for it. There is a misunderstanding and raised expectation created by the mismatch between the boundary of the criterion 4 area and the priority area boundary but while applicants are able to gain a place at their nearest school, I do not consider that this is unfair.

Conclusion

28. I have looked carefully at the submissions made by the referrers, the school and the LA. I have also considered the relevant paragraphs in the Code. The initial referrals were about the fairness of the arrangements for households in Woolmer Green parish. I have concluded that the use of distance to prioritise applications complies with the Code. A consequence of this is that children in the area will not all have the same priority. I have concluded that the use of the priority area and the nearest school criterion is objective and, in the main, clear. I have also concluded that the use of these criteria is fair because the alternative nearest school is undersubscribed and so applicants can gain places at their nearest school.

29. My conclusions are slightly qualified because of the mismatch between the boundary of the priority area and the area from which families are considered under criterion 4 of the arrangements. This creates an incorrect expectation for those families in the area of Woolmer Green parish for whom Monk's Walk School is not their nearest school. Given the distance of the parish from the school it is unlikely that a place will be allocated to those in the parish for whom Monk's Walk is not the nearest school under criterion 5 in the arrangements. In order to help prevent this incorrect expectation, the school should publish a map that clearly shows the area that receives priority of admissions under criterion 4 of its arrangements and that also shows the priority area that receives priority under criterion 5. For the reasons given I do not think that this situation currently breaches the Code, however a map should assist with the requirement for clarity and will highlight the areas of potential unfairness as described above.

30. I reviewed the overall arrangements and set out in paragraph 7 the areas where the arrangements do not comply with the Code. The school has agreed to review these matters and make the necessary changes.

31. Paragraph 3.1 of the Code says that "*admission authorities **must**, where necessary, revise their admission arrangements....within two months of the decision unless an alternative timescale is specified...*". I have considered the revisions that are required and require the revisions to be made within two months of the date of this determination.

Determination

32. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for Monks Walk School determined by the Board of Governors.

33. I determine that there are matters as set out in this determination that do not conform with the requirements relating to admission arrangements.

34. 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 arrangements within a specified timescale and in this case the revisions must be made within two months of the date of this determination.

Dated: 15 October 2015

Signed:

Schools Adjudicator: David Lennard Jones