



DETERMINATION

Case reference: ADA3354, ADA3356 and ADA3358

Admission Authority: London Borough of Redbridge for Cleveland Road Primary School, Ilford, Essex

Objectors: The governing board for Cleveland Road Primary School and two parents

Date of decision: 3 May 2018

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements for September 2019 determined by the London Borough of Redbridge for Cleveland Primary School.

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), objections have been referred to the adjudicator by the governing board for Cleveland Road Primary School and two parents, about the admission arrangements (the arrangements) for September 2019 for Cleveland Road Primary School, a community primary school for children aged between 3 and 11 years. The objections are:
 - a. that the consultation on the admission arrangements for Cleveland Road Primary School for September 2019 was flawed; and
 - b. to the reduction in the PAN from 120 in previous years to 90 for admission to Cleveland Road Primary School in 2019.

2. The parties to these objections are:
 - a. the governing board for Cleveland Road Primary School (the school);
 - b. the two parent objectors (the parent objectors); and
 - c. the London Borough of Redbridge which is the admission authority for the school and the local authority area in which the school is situated (the local authority).

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority, which is the admission authority for the school, on 6 February 2018. The objectors submitted their objections to these determined arrangements on the dates given below and 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

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the forms of objection received 5 March, 7 March and 8 March 2018; and further information provided by the objectors in response to my questions and to information and comments provided by the local authority;
 - b. the local authority's responses to the objections, the objectors' comments and my questions including information on the net capacity of the school, information on other schools in the area, the local authority's school organisation plan and the composite prospectus for parents seeking admission to schools in the area for September 2018;
 - c. information on the school's and the local authority's websites and a map of the area identifying relevant schools;
 - d. the consultation documents for admission arrangements in 2016, 2017, 2018 and 2019 and further information on the consultation for the admission arrangements for 2019;
 - e. copies of the minutes of the meeting of the local authority at which the arrangements were determined and the report provided to inform that decision; and
 - f. a copy of the determined arrangements.

6. I have also taken account of information received during a meeting I convened on 19 March 2018 at the school which was attended by one of the parent objectors and representatives of the local authority and the school.

The Objections

7. The objectors say that the consultation was flawed in that the intention to reduce the PAN for the school was not effectively brought to the notice of the school and parents of children aged between two and eighteen. The Code requires that the admission authority must consult in accordance with paragraphs 1.42 to 1.45 if it intends to reduce the PAN.
8. The objections are also to the reduction in the PAN which was set at 120 for 2016, 2017 and 2018 and has been set at 90 for 2019. Paragraphs 1.2 to 1.5 of the Code relate to the setting of the PAN.

Other Matters

9. There are other matters within the arrangements that do not conform with other requirements of the Code. These matters are listed below.
 - a. The second priority in the oversubscription criteria for primary schools (including Cleveland Road Primary School) says, "*priority for children of school staff up to one per form of entry.*" This is followed by definitions of which school staff are considered under this priority. However, the phrase "*up to one per form of entry*" may not be clear to parents as they may not know what it means for the schools that they are considering. Paragraph 14 of the Code says, "*In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*"
 - b. The arrangements say, with regard to linked infant and junior schools, that, "*This will also accord sibling priority, where appropriate, between the linked schools.*" This sentence may be unclear and so not meet the requirements of paragraph 14 of the Code.
10. As the arrangements are not clear in the ways described above, they do not conform with the Code and the Code requires that they be varied. The local authority has undertaken to vary the arrangements so that they will comply with the Code and it is required to this action within two months of the date of this determination. In the light of the local authority's undertaking, I shall not refer to these matters further in this determination.

Background

11. The London Borough of Redbridge is in east London. The school is in Ilford which is to the south of the local authority area. I note that it has an Essex

postal address but it is within Redbridge's area. It is an urban area with several primary schools. The area experienced increased demand for admission to primary schools. Four local primary schools were reorganised as part of a plan to expand the number of primary school places available to meet this increase in demand. The changes made can be summarised as follows:

- a. Cleveland Road Junior School's age range was extended so that the school became a primary school called Cleveland Road Primary School on 1 January 2016. The PAN for Cleveland Road Primary School was set at 120 for 2016, 2017 and 2018.
 - b. Cleveland Road Infant School closed on 31 December 2015 and its pupil body transferred to the new primary school. The PAN for the infant school was 90 in 2015.
 - c. Before becoming a primary school, Cleveland Road Junior School had a PAN of 140 at Y3. Its pupils comprised largely of those who had attended Cleveland Road Infant School and Gordon Infant School before being admitted to the junior school.
 - d. Gordon Infant School's age range extended in September 2016 and the school became a primary school. Thus children will remain at the school at the end of Year 2 (Y2) rather than transferring to another school, so, in due course, potentially more than doubling the size of the school.
 - e. The PAN for South Park Primary School was increased from 90 to 120 from September 2016.
12. Cleveland Road Infant School and Cleveland Road Junior School were situated on different floors of the same building. Cleveland Road Primary School now occupies that same building. Cleveland Road Junior School was inspected by Ofsted and judged to be inadequate in 2011 and to require improvement in 2013. Cleveland Road Infant School was judged to require improvement in 2013. In November 2014 Ofsted judged that Cleveland Road Junior School was outstanding and provided information about the school in its report which included:
- a. A much higher than average proportion of pupils joins the school mid year. Many of these pupils have come from abroad, with no information about their achievements.*
 - b. The proportion of pupils for whom the pupil premium provides support is very high and at least twice the national average. The pupil premium provides additional funding for looked after children and pupils eligible for free school meals.*
 - c. Nearly all pupils are from minority ethnic heritages and speak English as an additional language."*

13. The school is normally oversubscribed and has a waiting list for all year groups. There is a high degree of movement in and out of the school as families move in and out of the area. The local authority explained that in the recent past the demographics of the area meant that more key stage 2 (aged 7 to 11 years) than key stage 1 (4 to 7 years) places were required. This pattern has now changed and there are fewer families moving into the area and even fewer with older children doing so.

Consideration of Case

Consultation

14. First, I will consider the consultation undertaken by the local authority with regard to arrangements for 2019. Paragraph 1.42 of the Code says "*When changes are proposed to admission arrangements, all admission authorities **must** consult.*" Paragraph 1.44 provides a list of those who **must** be consulted. That list includes:

"a) parents of children between the ages of two and eighteen;" and

"d) whichever of the governing body and the local authority who are not the admission authority."

15. I asked the local authority to describe its consultation process in full to me. They told me that the consultation started on 2 October 2018 and the deadline was set for 13 November 2018 which would make the consultation the six weeks required by paragraph 1.43 of the Code. I was provided with an email alerting neighbouring local authorities to the consultation. All schools were sent information on a system called RedPEN (Redbridge Partnership Education Network) on 30 September (dated 26 September) 2017. RedPEN is a letter sent electronically to all schools in the local authority area normally once a week in school term-time. It provides a list of different communications on a variety of matters which may be of interest to schools. The consultation on arrangements for 2019 were in a list of seven matters listed under "*important information.*" Further information on this said, "*Anyone with an interest in education, such as parents, community groups or schools may like to comment on the proposals.*" There was no request for schools to inform parents of the consultation. It is the responsibility of the local authority to consult parents of children between the ages of two and eighteen and this RedPEN email provides no evidence of any consultation with parents.
16. There are schools with nurseries in the local authority area and these schools, including Cleveland Road Primary School, could have been asked to provide the consultation document to the parents of the children in its nursery, as well as those in the school, and so help towards fulfilling the requirements of paragraph 1.44. The admission authority cannot insist that schools inform parents that there is a consultation on its behalf but the local authority could ask but did not do so in this instance.

17. The insert in RedPEN said, “*The arrangements upon which consultation is taking place are as follows:*

- *Introducing an oversubscription criterion to give priority to children of staff working at the school up to one child per form of entry*
- *Updates to the Fair Access Protocol to reduce the categories of children covered for placement.”*

A link was provided in RedPEN to the online consultation document on the local authority’s website. There was no indication in the RedPEN letter that the PAN of the school was proposed to change or that matters related to the PAN were being consulted on. The local authority said that they felt that professionals would have looked at the full consultation document and that this is how it had consulted in previous years. As it was the school said it was completely unaware that there was any proposal to reduce the PAN at the school. Naturally, as the school was unaware, the school did not inform the parents of children at the school and its nursery.

18. I have found no evidence that the local authority made any other communication to the school, apart from that in the RedPEN letter, repeated on 6 November 2018, of its consultation to reduce the PAN of the school from 120 in 2018 to 90 in 2019. The RedPEN letter covers a wide range of subjects. The information on the consultation in the RedPEN letter gave no hint of any reduction to any school’s PAN. It would be reasonable for a school to expect a more direct communication on such a serious issue with significant implications for the school.

19. The local authority told me that it relied on its social media accounts to communicate with parents. Both parent objectors pointed out limitations in this approach; one put in her objection, “*Cleveland has a high number of parents who are not able to speak English or are unable to use a computer.*” One parent objector said that as a lay person, albeit as a very competent user of IT, she found that she did not know how she could voice her concern particularly as she only found out about the proposal when the date for feedback had passed. The local authority’s reliance on the use of social media as its method of communication with parents would be insufficient in most communities but particularly in this one. As the school said at the meeting, the local authority could have reached many parents by simply asking the school to put a notice on the school gate. Following the meeting the local authority informed me that due to an error the social media information aimed at reaching parents and the community had not been posted online until 1 November 2017 when it should have been online from 2 October 2017. This means that the information on social media informing any reader of the consultation online was only there for the last two weeks of the six weeks consultation period.

20. This social media information online did say that part of the consultation was for the admission numbers for some schools. It had a link to an online questionnaire which included the information that Cleveland Road Primary School had had a PAN of 120 and that the intention was to reduce it to 90. The form asked for comments. The local authority provided me with the detail of the responses it had received online. This consultation was for all community and voluntary controlled schools in the local authority area and 30 responses were received. There were twenty-five responses to the question on the PAN (which related to two schools) and 14 of those responses asked for further information as there was no information on the context and the reasoning behind the proposed reduction. The online consultation, the only way the local authority tried to make parents aware of the consultation, was ineffective as the existence of the consultation was poorly publicised, the information in the consultation did not explain the proposals and the social media information was only available for two weeks of the six week consultation period.
21. The local authority said that it had taken account of the good practice for consultation described in the chief adjudicator's annual report for 2017 and intended to improve its practice in the future. This is welcomed.
22. The actual consultation document itself consisted of draft arrangements with any changes from the previous year highlighted in yellow. On page 14 of the 18 page document there was a list of primary schools including the school. By Cleveland Road Primary School there was the number 90 highlighted in yellow to indicate that this would be a change. For any parent or other person who had discovered the consultation document on the local authority's website it would not be clear what this change meant without looking elsewhere for information on previous years. The consultation document did not make it apparent what the proposed change was from; it could, for example have been an increase in the PAN. Nor was there any explanation for why the change was proposed. These flaws made this a consultation document of poor quality.
23. The local authority explained that this was a system that it had been using for some years with no complaints. I noticed in the committee papers that the other school, South Park Primary School, for which a reduction in PAN was also being consulted on was similarly unaware of the consultation paper. The school reported at the meeting that other schools had said that they were unaware of this approach. The information on the consultation provided to the school and parents with children aged between two and eighteen was not provided in a way that was likely to bring it to their attention or for the implications to be understood. The consultation was therefore flawed.
24. Previous committee papers show the intention to invest in the area of £3.5 million in the school to facilitate its change from two separate schools into one and to enlarge it so that it could have 120 in all year groups. For a primary school to have 120 children in all year groups it would normally require 28 classrooms so there could be four classes in each of the seven

year groups (reception (YR) to Year six). On 9 November 2017 the local authority sent an email to all schools in its area with a copy of its draft school organisation plan. The draft school organisation plan explained that there were fewer children seeking places for YR than had been anticipated so there were vacancies including in some of the schools which had been expanded to accommodate the expected increases. The draft school organisation plan, which has since been adopted, said that the project at Cleveland Road Primary School should cease as there were sufficient school places in the area and indicated that the school could not accommodate a PAN of 120 for YR for 2018. I note that the local authority had by that point set the PAN at 120 for 2018.

25. The school contacted the local authority and thus became aware, shortly before the closing date of 13 November 2017, of the consultation to reduce its PAN from 120 (as it had been in 2016, 2017 and 2018) to 90 for admissions in 2019. The local authority agreed to extend the consultation period to 30 November 2017 in light of the concerns raised on the consultation by the school. This was a helpful response to the situation. The online consultation, which did not require that a name and address was provided, closed on 13 November 2017 and so one of the objectors pointed out that it was not possible to make anonymous responses. The local authority officers advised that comments could be sent direct to the admissions team. The Code does not require that responses to a consultation can be made anonymously.
26. The parent objectors explained that, as one said, *“Given the lack of access and language barriers in our community, parents asked representatives to collate and submit responses on their behalf. Within three days we collected and handed over approximately 900 responses, against this proposal, to the local authority.”* The other parent objector also describes this work in similar terms and further explains, *“Parents walked from the school to Lynton House (council offices) and submitted the petition in person to an officer in Education.”* The local authority officers provided a report to the meeting of the Cabinet, the decision making body, which took place on 6 February 2018. The Cabinet determined the arrangements with a PAN of 90 for the school. The objectors were not convinced that they had had full opportunity to express their arguments to the decision making body and that more information on the date and time of the meeting should have been made available to them. This date was made available in several of the consultation documents and I do not think that it was necessary for the local authority to take further steps to publicise the date of the meeting.
27. Local authority officers made a report to inform the Cabinet’s decision. The report broadly included the concerns raised by the 890 comments and letters submitted by parents and staff at Cleveland Road Primary School. It also recommended that the PAN be reduced because, *“there are now more than sufficient places elsewhere in this area of the borough and as a Local Authority the key consideration for the Council is not only the impact of changes on one particular school but also the impact on other schools and on the efficient use of public resources, particularly when there is no need to*

expand this school while others have more than sufficient places available.”
I think that the local authority reported the outcome of the consultation fairly to the decision makers.

28. The poor flow of information to the school with regard to the proposal to reduce its PAN from 120 in previous years to 90 for 2019; the poor quality of the consultation document; and the ineffectiveness of the efforts to meet the statutory duty to consult with parents with children between the ages of two and eighteen leads me to conclude that the consultation was flawed and did not meet the requirements of the Code. I note the remedial efforts made by the local authority to address these matters but they were insufficient to render the consultation compliant with the requirements of the Code.

Reduction in PAN

29. I will now consider the part of the objections that relates to the reduction in the PAN from 120 in previous years to 90 for admissions in 2019. The report to Cabinet, described above, explains that the school does not have capacity to admit 120 children to YR in 2019 without capital investment and as there are surplus places elsewhere this would be poor use of public resources. I do note that the report to Cabinet does refer to ‘bulge classes’ in 2016, 2017 and 2018. This is misleading as the PANs for those years were set and determined so that up to 120 children could be admitted; we agreed at the meeting that a ‘bulge class’ refers to making additional provision due to unexpectedly high demand.
30. As described above, the numbers of children requiring admission to YR in the local authority area had increased in previous years. The local authority increased the number of places in a variety of ways and intended to increase the size of the school so that it could accommodate 120 children in each year group. A primary school with 120 children in each of its seven year groups would have 840 children. I note that the previous infant and junior schools were expected to have up to 270 children in the infant school and 560 in the junior school. This would mean a total of 830 – only ten fewer than the number indicated by a PAN of 120. However, the two schools were able to accommodate 830 children in 25 class groups by dint of organising the infant children into three classes each of thirty pupils in each of the three year groups (YR, Y1 and Y2) and the junior children into four classes each of 35 pupils in each of the four year groups (Y3 – Y6). However, to accommodate 840 children would require 28 class groups if there were not to be mixed age class groups.
31. I looked at the information for parents in the admissions booklet for 2018 provided by the local authority on admissions in 2017. This shows that across the six community schools which are less than a mile from the school that 15 per cent of the places were vacant. There are 393 vacancies based on allocated places admissions to YR in September 2018 across the local authority area. This is 8.68 per cent of the total number of places available. It is therefore understandable that the local authority does not wish to invest capital to create further places at this point.

32. I am aware that there is anticipated new housing planned for the vicinity of the school. This may increase future demand for all schools but is unlikely to have an effect on admissions in 2019.
33. The school is popular and 120 children are anticipated to be admitted to YR in 2018 despite the overall fall in the number of children in the area seeking a school place in YR. The school has significantly improved its education offer in the last few years and it argues that it is not appropriate to reduce the number of places in a popular and outstanding school. The school is also concerned about the effect on staff. Clearly, there has been some hard work to reach the standards required to achieve a judgement of outstanding while also combining two former schools into one effective school. The parent objectors point out that it seems scant reward to reduce the staffing body as will be necessary if there were to be significantly fewer pupils. I also note that the local authority has introduced the priority in the oversubscription criteria for children of staff described in the consultation as *“considered necessary to allow our schools to recruit and retain staff.”* These factors relating to the effect on staff are not matters that I can take into account as they are not germane to the issue of the conformity of the admission arrangements to the Code and legislation.
34. The local authority told me at the meeting that it anticipates the PAN remaining at 90 for the future unless there are further changes such as an overall increase in the number of children. This would mean that the school, which as at 26 March 2018 had 877 pupils on its roll (excluding the nursery), would shrink to 630 over the years. Given the levels of applications for places at the school, this is likely to mean that more parents will be disappointed at not being able to secure a place there for their children. The parent objectors have also pointed out that this is a *“school of choice”* in their community. They believe that reducing the PAN will deeply affect the community and its *“hopes and expectations for their children.”*
35. A school must have the capacity to admit up to its PAN. The capacity of the school was not clear to me so I undertook a tour of the school and asked how many classrooms the school had. At the time of my visit the school had 27 classrooms. This is an increase the school has managed by adapting existing rooms, so the previous library is now a classroom for example, and so at some cost both financially and to its provision.
36. I have explained above that a primary school with a PAN of 120 will need 28 classrooms to avoid mixed-aged classes. It was the local authority’s submission that there were an insufficient number of classrooms to have a PAN of 120 in 2019. In addition, it argued that capital investment was not appropriate, as I have discussed above, because it would be poor use of public funds when there were existing school spaces nearby.

37. However, in examining the pupil numbers, I saw that the current Year 2 (Y2) has 90 pupils. This is because the PAN was 90 when this year group entered YR at the previous infant school in 2015 as shown in the table below.

Table showing number of children attending the school

	Year of admission	Number of children attending the school as at 26/3/18
YR	2017	120
Year 1	2016	120
Year 2	2015	90
Year 3	2014	129
Year 4	2013	138
Year 5	2012	140
Year 6	2011	140
All year groups	Not applicable	877

38. It transpired at the meeting that the school had assumed that there would be additional children joining the school for Y3 in September 2018 as had happened in all previous years. The local authority informed the school that this was not the case as they had set no additional PAN for Y3 and that there was no need for additional places. This was a sore blow to the school which had anticipated the pattern of previous years with more children being admitted to Y3. The local authority agreed that its communications on its plans during the closure of the infant school and the extension of the age range of the junior school to become a primary school had been lacking.

39. This disappointment to the school that there will not be an additional intake at Y3 does mean, however, that it has and will continue to have until the current Y2 group leaves Y6 in July 2022, a year group of around 90 pupils. A year group of 90 pupils normally means three classes of 30. A school with six year groups of 120 and one of 90 requires 27 classrooms which aligns precisely with the way this school is currently using its available accommodation. This means that the school has the capacity to admit 120 children into YR in 2019 (and indeed in 2020 and 2021 all other things being equal).

40. The local authority said that it needed to plan strategically for this lack of capacity rather than wait four years until 2022. It also reminded me of the impact on other schools if this school continued to admit 120 children to YR. The impact will be unused facilities such as classrooms, some of which have only just been built to meet the anticipated need, potentially staff redundancies and possibly even the closure of an existing school. I understand that the local authority has to take a wide and long view; it has to think beyond the interests of one school in the light of its legal duty to secure the provision of school places in its area and make best use of public resources.

41. This school however, has the capacity to admit 120 children to YR in 2019. The demand for the school remains high and 120 children have been admitted to YR since 2016 when the school became a primary school and 120 children have been allocated places for 2018. A PAN of 90 would reduce parental choice in the area by reducing the number of places available at a popular school. I recognise that standards can change within a school but at its most recent inspection this school was judged outstanding by Ofsted and there was no evidence presented to me that this has changed. The school can accommodate 120 pupils in YR in 2019 in its existing accommodation. I accordingly consider that the PAN for admissions to YR in 2019 should be 120.

Summary of Findings

42. The consultation on the admission arrangements for the school in 2019 was flawed as the mechanisms used to inform the school and parents with children aged between two and eighteen were inadequate to their purpose. It was almost by chance that the school and parents were made aware of the consultation. The local authority extended the consultation period by two weeks when the problem was realised but this was insufficient to rectify the flaws.

43. There have been vacant school places in YR in other nearby schools in 2017 and for September 2018 and the local authority wishes to reduce surplus capacity. The school is popular with parents and it has admitted 120 children to YR for the last two years with 120 allocated for 2018. The school has the space to accommodate a PAN of 120 in 2019 and wishes to admit 120 in 2019. I therefore determine that it is appropriate for the school to have a PAN of 120 for 2019 for admission to YR.

Determination

44. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements for September 2019 determined by the London Borough of Redbridge for Cleveland Primary School.

45. 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.

46. 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: 3 May 2018

Signed:

Schools Adjudicator: Deborah Pritchard