

## **DETERMINATION**

**Case reference:** ADA 2459-2474, 2478, 2487-89, 2495-2503, 2532, 2536

**Objectors:** Parents and other individuals

**Admission Authorities: Warrington Borough Council and the Governing Bodies of Great Sankey High School Warrington, University Academy Warrington, Beamont Collegiate Academy and Penketh High School**

**Date of decision:** 29 August 2013

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements determined by Warrington Borough Council and Great Sankey High School.**

**I have also considered the arrangements for Great Sankey High School in accordance with section 88I(5). I determine that they 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 authorities. The School Admissions Code requires the admission authorities to revise their admission arrangements as quickly as possible.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), 30 objections have been referred to the Adjudicator by parents and other individuals (the objectors), about the admission arrangements (the arrangements) for Great Sankey High School (the school), an academy school for boys and girls aged 11 to 18, for September 2014, and about the admission arrangements determined by Warrington Borough Council, the local authority (the LA) for community secondary schools in the LA's area.
2. The objection concerns the removal of feeder school status from most of the primary schools in the borough, each of which was a feeder primary school to one of the secondary schools in the LA's area for admissions in September 2013.

## **Jurisdiction**

3. The LA determined the arrangements for community schools for which it is the admission authority under section 88C of the Act on 15 April 2013.

4. Great Sankey High School became an academy school on 1 January 2013. The terms of the academy agreement between the proprietor 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. The proprietor, the admission authority for the school, determined the arrangements on that basis.

5. The objectors have submitted objections to these determined arrangements between 4 June 2013 and 8 July 2013. 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.

6. I am also using my powers under section 88I to consider the arrangements as a whole for the school and the arrangements for 2014 for admission to The University Academy Warrington, Beamont Collegiate High School and Penketh High School.

## **Procedure**

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

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

- a. objectors' letters, emails and forms submitted between 4 June 2013 and 8 July 2013;
- b. the LA's response to the objection and supporting documents;
- c. maps of the area identifying relevant schools;
- d. confirmation of when consultation on the arrangements last took place;
- e. copies of the minutes of the meeting at which the LA determined the arrangements for the schools for which it is the admission authority and of the meeting of the school governing body at which it did so for the school;
- f. copies of the arrangements determined by the LA and by the school, and
- g. correspondence with each of the four academy schools that became academy schools in 2013 and prior to 15 April.

## **The Objections**

9. Thirty individual objections, 27 of which were from parents, have been received. More than a third of these stated their objection to the removal of feeder primary schools (in general) from the admission arrangements for Warrington secondary schools for September 2014 without specifying why they believed this change to be contrary to the requirements of the Code.

10. However, a similar proportion stated that there had been inadequate, or no, consultation on the change prior to its adoption, and five objections made specific reference to the requirements on admission authorities concerning consultation which are set out in paragraph 1.44 (and elsewhere) in the Code. A petition with 430 signatories and an e-petition with 63 signatories were received. The former referred to the admission arrangements of "Warrington Borough Council and schools throughout Warrington", and the latter specifically to the ending of the partner arrangement between Callands Primary School and Great Sankey High School. Both register objections to the arrangements on the grounds of inadequate consultation, and the former raises the fairness of some partnership arrangements remaining. The paper petition cites paragraph 15 of the Introduction to the Code and paragraphs 1.42 and 1.44 in support of its objection concerning inadequate consultation.

11. Five of the objectors were explicit in stating their belief that they were objecting to the admission arrangements of Great Sankey High School as determined by the LA. However, one further objector was aware that the school had determined arrangements itself and submitted their objection to the arrangements on that basis, stating that there had been inadequate public consultation, that the information which has been available to parents concerning admissions to the school had been unclear, and that the determined arrangements are not fair in continuing feeder school arrangements for some primary schools but not for others.

## **Other Matters**

12. As a result of the objections, the admission arrangements of all secondary schools in Warrington for September 2014 have been brought to my attention. In particular, I have considered those of the three other schools which became academy schools between 1 January 2013 and 15 April 2013 in addition to Great Sankey High School.

13. I therefore wrote to each of the four newly established academy schools asking them if they would provide me with a copy of their determined admission arrangements and a copy of the minute of the meeting at which they were determined. In addition, I asked these schools to respond to my concerns that their arrangements may not comply with the requirements of the Code and legislation, as follows:

### Great Sankey High School:

that the condition for entry to the school's sixth form in the requirements set out in its prospectus of "a successful application and interview" are unclear and not in accordance with the requirements of

paragraph 2.6 of the Code, which forbids interviews.

Beamont Academy:

that the school has not have determined its arrangements appropriately.

Penketh High School:

- (i) that the school has not have determined its arrangements appropriately, and
- (ii) that the school's application form for sixth form places requests information not permitted by paragraph under paragraph 2.4 of the Code.

University Academy Warrington:

that the school has not determined its arrangements appropriately.

**Background**

14. There are 12 secondary schools in the Borough of Warrington. Three of these are aided schools and two were academy schools prior to the current year. Four more, Great Sankey High School, University Academy Warrington, Beamont Collegiate Academy and Penketh High School became academy schools during 2013, prior to 15 April. Each of these previously had community status, and each therefore became for the first time its own admission authority and the body responsible for determining its admission arrangements for September 2014. The LA remains the admission authority for three community schools, one of which, Birchwood Community High School became an academy school on 1 July 2013. As its arrangements were determined while it was still a community school those arrangements stand for admissions in 2014.

15. Historically, a system of “partner” primary schools has operated in Warrington. Each primary school was a designated feeder school for one of the town’s 12 secondary schools. In the arrangements for September 2013, priority to children attending partner primary schools follows that for looked after and previously looked after children, siblings, and applications supported on medical or psychological grounds. In October 2012 the borough’s Executive Board received a report from officers outlining why it was believed that this practice needed to be changed, and in November 2012 the LA wrote to the chairs of governors and headteachers of all state funded schools in the borough, to neighbouring local authorities and to the relevant diocesan authorities to consult them on proposed changes to these arrangements. It informed them that its view was that the School Admissions Code which had been published on 1 February 2012 had the effect of making these universal partnering arrangements no longer tenable, and that it therefore proposed for admissions in September 2014 to end them in general, retaining only two partnering arrangements for which there was specific justification. The general effect of this proposal is that home to school distance, which had previously been a lower oversubscription criterion than the priority given to children from

feeder primary schools, will replace it as the principal discriminator between applicants for places at oversubscribed secondary schools.

16. A report on this consultation was made to the Executive Board on 15 April 2013, when the arrangements containing the proposed changes to the pattern of feeder primary schools, were agreed. The LA told me that when the Executive Committee determined these arrangements, it did so in the belief that the schools to which they applied were the three community schools for which it is the admission authority and to the four former community schools which acquired academy status during 2013. The LA had mistakenly believed that since it had conducted a consultation on proposed admission arrangements for September 2014 for the four academy schools which had been started while each school was still a community school, that it would fall to the LA to determine the arrangements. It does not say on what grounds it held that belief. There is no provision in legislation which establishes a means for a school which is its own admission authority to cease to be such in law and for another body (such as the LA) to become the school's admission authority in its place, or for such a body to act on behalf of a school which is its own admission authority in this matter.

17. Reports of this decision appeared in the local press on the following day. A number of objectors say that this was the first time they had heard about the changes introduced by the LA. On 7 June 2013 a newsletter issued by Callands Primary School, which has previously been a feeder primary school for Great Sankey High School, told parents that "responses" to the determined arrangements should be sent to the Schools Adjudicator before 30 June 2013, and this has, I am sure, affected the nature of the objections which have been received.

18. Some objectors have stated that their objection is to the admission arrangements for secondary schools in the borough as determined by the LA, without mentioning a particular secondary school. It seemed to me that the confusion which there has been about which body was responsible for the determination of the arrangements for Great Sankey High School, which I shall describe below, may have resulted in some objections which were actually concerned with the arrangements for the school being couched instead in terms of the LA. This would have been correct prior to the school's conversion to academy status. Objectors who contacted the Schools Adjudicator initially by email referring to Warrington schools as the focus of their complaint were asked to return an objection form and were asked "If your objection concerns one specific school, rather than all Warrington secondary schools, please make this clear on the form". A number of the subsequently submitted forms name the LA as the admission authority whose arrangements are the subject of the objection and my view is that there is no reason not to take them at face value.

19. In other words, the LA determined admission arrangements for the schools for which it is the admission authority on 15 April 2013, to which there have been objections. The objectors complain, variously, about the general removal of partnering arrangements, about there having been a lack of consultation, and about the unfairness of the decision to retain partnering arrangements for some primary schools. In essence, however, all are

opposed to the change because a child who would previously have had a high priority for a given secondary school may under the new arrangements be much less likely to secure a place there.

20. The only secondary school named by any of the objectors is Great Sankey High School, and all do so fearing that the removal of partnering arrangements will mean that their child will have a reduced chance of gaining a place there. Two primary schools are mentioned by objectors in these terms – most frequently Callands Primary School and secondly St Philip Church of England Primary School, both of which were previously designated feeder schools for Great Sankey High School.

21. Great Sankey High School became an academy school on 1 January 2013. The school's funding agreement with the Secretary of State requires it to comply with the Code and the law relating to admissions. I have examined this agreement. It contains a derogation which disapplies sections 1.9f and 2.4a of the Code in order that the school may be given permission to give priority within its arrangements, after the priority given to looked after and previously looked after children, to children attracting the pupil premium including the service premium ("the pupil premium admission criterion"). In all other respects the school is required fully to comply with admission law and the Code.

22. I had written to the LA on 18 June 2013 following the receipt by the Schools Adjudicator of objections to the admission arrangements of Great Sankey High School which named the LA as the admission authority. The school's own website at this time contained a clear statement that it had no part in the admission process which was "handled by Warrington Borough Council". The LA told me that the schools to which it was believed the determined arrangements applied were the three community schools and the four schools named above.

23. Great Sankey High School told me that it was aware that it had been following incorrect advice concerning its admission arrangements, and provided me with the minute of a governing body meeting on 18 June 2013 at which the governors determined the school's admission arrangements for September 2014. The arrangements, which were forwarded to me on 21 June 2013, are those which the LA believed it had determined for the school. That is, the only partner arrangement which is retained is for Burtonwood Community Primary School. When I looked at the school's website on 24 June 2013, these arrangements were posted there together with a statement that they had been determined by the Academy Trust.

24. As stated above, one objection has been made to the admission arrangements of Great Sankey High School which specifically refers to these arrangements determined by the school.

25. Three other Warrington schools also became academy schools during 2013 prior to 15 April, as follows:

University Academy Warrington (formerly Lysander Community High School): on 1 January 2013

Beamont Collegiate Academy (formerly William Beamont Community School): on 1 March 2013

Penketh High School: on 1 April 2013.

26. Their funding agreements with the Secretary of State all contain the same derogation as that described above for Great Sankey High School, and they too must in all other respects fully comply with admission law and the Code.

27. For all four schools, the admission arrangements for September 2014 should therefore have been determined by the school itself no later than 15 April 2013, but they were not.

28. In summary, there are two linked matters to which I believe I must give my consideration;

- (i) the objections to the LA's determined arrangements for community schools and to those determined by Great Sankey High School, and
- (ii) the admission arrangements for the three other academy schools which have come to my attention as a result of these objections.

### **Consideration of Factors**

#### **(i) the admission arrangements of the LA and of Great Sankey High School**

29. Although in respect of admission arrangements determined by two admission authorities for different schools, all of the objections concern the same change which has been made to the previous arrangements and to the common process which has underpinned these determinations. Objectors complain in both cases about a lack of consultation and about a perceived unfairness associated with the retention of partnership arrangements for some primary schools, but not for others. The objection to the admission arrangements determined by Great Sankey High School also cites the Code at paragraph 15a of the Introduction which requires admission arrangements to be clear, saying that parents have been confused about the status of the school and therefore about the admission arrangements that apply to it.

30. The consultation which the LA carried out took place between 30 November 2012 and 15 February 2013, and so for longer than the minimum period of eight weeks specified in the Code. The proposals were published on the LA's website from 29 November 2012, and e-mails were sent to all headteachers and all chairs of governing bodies in the borough and to neighbouring authorities and relevant diocesan authorities outlining the proposed new arrangements and seeking responses to them. School governing bodies received a report from the LA at their Spring Term 2013 meetings which also invited a response to the proposals, and they were discussed at the local Admissions Forum on 20 March 2013.

31. Paragraph 1.44 of the Code gives a list of those whom admission authorities **must** consult when changes are proposed to their arrangements,

which includes “parents of children between the age of two and eighteen”, and “any other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions”. The relevant area for this purpose is the area of the LA. The LA has told me that “consultation with parents is via schools and through publication on the Council website”. I have seen all the communications which the LA sent to schools and can find no reference even to bringing the matter to the attention of parents, as might at least be expected if this approach were intended as a partial means of fulfilling the requirements of the Code. It fails entirely to reach parents of younger children.

32. Paragraph 1.44 of the Code repeats the requirements concerning those who must be consulted about proposed admission arrangements which is specified in Regulation 12 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012, for the purposes of section 88C(2) of the Act. That is to say, this requirement rests squarely on a base of legislation. The Code, perhaps unsurprisingly, gives prominence to the requirement to consult parents by listing them first, since parents are a principal audience of the Code. The changes proposed by the LA were very significant in nature and likely to affect large numbers of children and parents. I would have expected the LA in these circumstances to have been conscious that it might need to be seen to consult parents openly and directly in order to meet the requirements of legislation and the Code. It did not.

33. When the consultation was reported to the LA’s Executive Committee on 15 April 2013, seven responses had been received, six of which came either from a headteacher or a chair of a governing body, and one was from a member of the public (in support of the changes).

34. Great Sankey High School carried out no consultation prior to its late determination of admission arrangements for the school for September 2014, on 18 June 2013. The minutes of its governing body make it clear that it relied on the consultation which had been carried out by the LA and both have therefore failed in my view to consult as required by legislation and the Code.

35. The arrangements determined by the LA retain a partnership arrangement between one primary school and one of the high schools for which it is the admission authority. Those determined by Great Sankey High School continue the previous partnering arrangements between it and one primary school. The objectors have complained that, in each case, to do so is “unfair” when partnering arrangements have been ended for all other primary schools. A number of objectors have pointed out that the designation of feeder schools is not forbidden by the Code, which only says that such designations **“must** be transparent and made on reasonable grounds” (paragraph 1.15).

36. The LA has told me that the retention of these two partnering arrangements was proposed following an impact assessment which it carried out. This indicated that since each of these communities does not have a secondary school within three miles, children living in the areas served by the two primary schools would be significantly disadvantaged if no partnering

arrangement were retained.

37. There is no doubt that the feeder schools have been designated transparently, and the reasons given by the LA for proposing these arrangements appear to me to meet the Code's requirement of reasonableness. As to the question of fairness which the objectors have raised, they have done so in my view believing that the changed arrangements relatively disadvantage themselves and that they are in that sense "unfair". This may be so, but the purpose of oversubscription criteria is to give higher priority to some children over others. They must not do so unfairly, however, in the sense of this not being done unreasonably. I have said that the designation of partner schools has been on reasonable grounds, and I cannot at the same time then say that the arrangements are unfair. This applies equally to the arrangements determined by the LA and by Great Sankey High School.

38. The objection made to the admission arrangements determined by Great Sankey High School also states that they breach the requirements required in the Code concerning the clarity of information provided to parents. In as much as the information given on the school's website has until relatively recently been in error, as I described earlier, concerning the status of the school and the consequences which this has for the responsibility for determining the arrangements, that must be true. The school has also clearly failed in its duty to determine its admission arrangements for September 2014 by 15 April 2013.

39. I also raised with the school my concerns about the admission arrangements for its sixth form, which is known as Barrow Hall College. I asked the school to respond to my concerns that:

- (i) no admission arrangements for the sixth form had been determined, since I could not find them on its website;
- (ii) an entry requirement referred to in the schools prospectus of "a successful application and interview" was unclear in its meaning, and
- (iii) interviews should form no part in the entry procedures for the sixth form since paragraph 2.6 of the Code precludes such activity.

40. I wrote in these terms to the school on 7 August 2013, but have received no reply. I have also had no reply from the school to my letter of 1 July 2013 asking for comments on the objections which had been received to its admission arrangements, and to reminder e-mails and telephone calls in the period up to 24 July 2013 when a final e-mail was sent.

41. In the absence of any evidence to the contrary, or of any mitigating explanation, I am of the view that the concerns which I have expressed about these further aspects of the school's arrangements are justified.

**(ii) the admission arrangements of University Academy Warrington, Beamont Collegiate Academy and Penketh High School**

42. I wrote to the three schools on 8 July 2013 asking to see a copy of their determined arrangements and a copy of the minute of the meeting at which they were determined. I asked if the arrangements were the same as those for September 2013, and if different, what changes had been made.

43. I received a reply from University Academy Warrington on 12 July 2013 saying that the school "agreed to adopt Warrington Borough Council's admission arrangements at a Governing Body meeting held on 14 December 2012. The minutes of the meeting make no mention of admissions, and Warrington had not determined its admission arrangements for September 2014 on 14 December 2013. I wrote again to the school on 7 August 2013 making these points and asking whether an untitled and undated document setting out admission arrangements for the school which had been sent to me was a statement of the school's arrangements for September 2014. I also asked the school where I could access the school's admission arrangements, including those for its sixth form, since none were to be found on the school's website. As no reply was received, a reminder was sent by e-mail on 13 August 2013. I have still had no response from the school.

44. Beamont Collegiate Academy replied on 15 July 2013 saying that an attached admissions policy for the school for September 2013 was to be found on the school's website and that "we have no plans to change it for 2014". I replied on 17 July 2013 setting out the requirement that admission arrangement be determined by 15 April each year and saying that it appeared to me that it had not yet determined its arrangements for September 2014. The school replied on 22 July 2013 and attached a document setting out admission arrangements for September 2014. This document is identical in almost every respect to one sent to me by Great Sankey High School and which had been posted on the latter's website in June. Both fail to include an admission number for the respective schools. I wrote again to Beamont Collegiate Academy on 22 July 2013 asking again to be provided with a copy of the minutes of the meeting at which these arrangements had been determined. As no reply was received, a reminder was sent by e-mail on 13 August 2013. I have still had no response from the school and as a consequence. I noted that a document posted on the school's website in June (entitled "Admissions Policy") had stated that the school intended to publish its admission arrangements for September 2014 in September 2013.

45. Penketh High School replied on 15 July 2013 saying that the governing body had met "in June 2013" but that minutes were not yet available. I was told that the governors had "decided not to consider any changes but to continue to work with our Service Level Agreement with the Local Authority approach". I wrote again to the school on 12 August 2013 seeking clarification. I asked to be told the date of the governing body meeting, and whether the decision of the governors on that occasion had resulted in the document to be found on the school's website entitled "the determined arrangements for academic year 2014-15 for Penketh High School". I also asked whether the school had determined admission arrangements for its sixth form, since these did not appear on its website. In addition, I raised my view that an application form for the school's sixth form

posted on its website asks for information which does not have a direct bearing on applications, such as the nationality of the applicant, in contravention of paragraph 2.4 of the Code. The school replied on 15 August 2013 giving the date of the governing body meeting as 20 June 2013, and saying that the governing body decision had resulted in the statement of the school's policy posted on its website. The statement had been drafted with the help of the LA, and is again in its essential details identical to that which the two other schools have posted on their websites, and again fails to include an admission number for the school. The school accepts that it has not determined admission arrangements for September 2014 for its sixth form, and that the suitability of its application form is questionable. I accept that it may be that a formal minute of the governors' meeting of 20 June 2013 may not yet be available and the school has told me that the meeting did make a determination of the schools admission arrangements for September 2014. If so, these were however determined after the 15 April deadline, and would be deficient in respect of a stated admission number and in failing to provide admission arrangements for the school's sixth form.

## **Conclusion**

46. I have set out above the reasons why I have come to the view that the consultation carried out by the LA and relied upon by Great Sankey High School prior to each determining their admission arrangements for September 2014, did not meet the requirements of paragraph 1.44 of the Code concerning consultation with parents. I therefore uphold the objections which have been made to the determined arrangements on these grounds.

47. I have also given the reasons why I do not believe that the retention of feeder school arrangements for some primary schools to some secondary schools when other such arrangements have been removed from the determined arrangements of both the LA and of Great Sankey High School renders these arrangements unfair. I do not uphold the objections to the determined arrangements which have been made on these grounds.

48. Also for reasons set out above, I have concluded that the admission arrangements determined by Great Sankey High School

- (i) were not determined by 15 April 2013, as they must be (Code, 1.46);
- (ii) do not state an admission number for the school, as they must do (Code, 1.2);
- (iii) contain no admission arrangements for the school's sixth form, the requirements concerning which are to be found in paragraph 2.6 of the Code, and
- (iv) set out an application procedure for sixth form places which is unclear and which involves an interview of prospective students, which is not allowed (Code, 2.6).

49. It is a matter of great concern that changes made to the admission arrangements by the respective admission authorities for secondary schools

in Warrington which must affect large numbers of children there have been introduced in the absence of any meaningful consultation with parents in the borough. However, other than in the respects noted in this determination, arrangements which are compliant with the requirements of legislation and the Code have been determined for admissions to the town's secondary schools in September 2014. Objections have been made to the arrangements of the LA as a whole, and a large number of objectors have registered this disapproval in the form of a petition. It is also the case that the only schools that have been named by objectors are Great Sankey High School and two of its former feeder primary schools.

50. I remain concerned regarding the admission arrangements that should have been determined for the other three academy schools that became their own admission authorities for 2014 admissions. Penketh High School has given me some details concerning such a determination, but I cannot be certain that this took place appropriately in the absence of a governing body minute. Both University Academy Warrington and Beamont Collegiate High School have failed to provide me with any evidence of an appropriate determination of their admission arrangements. I have concluded that I should not delay issuing this determination, but will separately continue my investigation into the arrangements of these three schools.

### **Determination**

51. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements determined by Warrington Borough Council and Great Sankey High School.

52. I have also considered the arrangements for Great Sankey High School in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.

53. By virtue of section 88K (2), the adjudicator's decision is binding on the admission authorities. The School Admissions Code requires the admission authorities to revise their admission arrangements as quickly as possible.

Dated: 29 August 2013

Signed:

Schools Adjudicator: Dr Bryan Slater