

DETERMINATION

Case reference: ADA/002250

Objector: The Governing Body of Tideway School,
Newhaven

Admission Authority: The Governing Body of Seaford Head
Community College

Date of decision: 18 June 2012

Determination

In accordance with section 88H (4) of the School Standards and Framework Act 1998 (the Act) I uphold the objection to the reduced admission number and do not uphold the objection to the extended community area which both form part of the admission arrangements determined by the Governors of Seaford Head Community College.

I have also used my power under section 88I (5) of the Act to consider the admission arrangements as a whole and determine that they do not comply with the School Admissions Code in that the arrangements:

- (i) do not include a clearly defined tie-breaker;**
- (ii) are not published on the School's web-site;**
- (iii) do not include a clear statement that all children whose statement of special educational needs (SEN) names the school will be admitted; and,**
- (iv) do not number the oversubscription criterion relating to children of staff to show its priority within the oversubscription criteria.**

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 as quickly as possible.

The referral

1. An objection has been referred to the adjudicator by the governing body of Tideway School, Newhaven, about the admission arrangements for Seaford Head Community College (the school), a foundation trust school, for

September 2013. The objection is based on the decision taken by the school's governing body to reduce its admission number from 240 to 210 while, at the same time, extending its community area. The school's oversubscription criteria give those who live in the designated community area priority over those who do not.

Jurisdiction

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body, which is the admissions authority for the school, on 19 March 2012. The objection from the chair of governors of Tideway School, dated 4 May 2012, was received by the Office of the Schools Adjudicator (OSA) the same day. I am satisfied this objection has been properly referred to me in accordance with section 88H of the Act and that it falls within my jurisdiction.

3 In addition to investigating the matters raised by the objector I have also used my power under section 88I (5) of the Act to review the admission arrangements as a whole and considered whether they comply with the School Admissions Code (the Code).

Procedure

4 In coming to my conclusions, I have had full regard to all relevant legislation and the Code.

5 The documents I have considered in reaching my decision include:

- the objection form submitted by the chair of governors of Tideway School on behalf of the governing body dated 4 May 2012;
- a letter from the chair of governors of Tideway School to the school dated 24 February 2012;
- a letter from the chair of governors of Denton Community Primary School to the school dated 25 February 2012;
- school capacity data from the Department for Education's (DfE) net capacity assessment method for secondary schools dated November 2010;
- the East Sussex County Council's (the council) School Organisation Plan 2011/12 to 2015/16;
- the council's composite prospectus on admissions to secondary schools for September 2012;
- the school's response to the objection dated 18 May 2012 and related documents;
- the council's response to the objection dated 25 May 2012 and related documents;
- minutes of meetings of the school's governing body on 9 November 2011, 12 December 2012, and 19 March 2012;

- maps provided by the council;
- the school's agreed admission arrangements for 2013; and,
- the most recent Ofsted inspection reports on the work of the school and Tideway School.

The Objection

6 Tideway School and the school are neighbouring schools on the East Sussex coast. This objection is to the decision made by the school's governing body to simultaneously reduce the school's admission number from 240 to 210 and extend its community area to include part of the community area of Tideway School. While the objector does not refer to any specific breach of the Code, it believes the changes are against the "*spirit*" of it as it is likely that they will result in the school becoming over-subscribed and that this will reduce parental choice.

Background

7 The school is a co-educational, split-site, foundation trust secondary school serving pupils aged 11-16 who live in and around Seaford Head in East Sussex. Like all secondary schools in East Sussex it has a defined community area, a local term for a catchment area, which forms part of its oversubscription criteria. The school is located some four miles east of Tideway School (the nearest secondary school) a community secondary school serving the same age range. In recent years, both schools have been undersubscribed. In their last Ofsted inspections, the school and Tideway School were judged to be good and satisfactory respectively.

8 The school's admission number has varied in recent years. Until September 2011 the school had community school status and the admission number was decided by the council. In September 2007 and 2008 it was 240 then dropped to 210 for 2009 and 2010 before returning to 240 for September 2011. The school reports that there were no objections to any of these previous changes. The current roll of the school by year group is shown below.

Projected Y7 for 2012	Year 7	Year 8	Year 9	Year 10	Year 11
206 (school)	220	206	208	223	188
216 (council)					

9 The most recent school capacity assessment is dated November 2010. This used the nationally established methodology and concluded that the school's capacity was 1200 with an indicated admission number of 240.

The Response of the School

10 The school believes that it met all the requirements of the Code and that it took all relevant factors into account in determining its admission arrangements.

11 The school states that it gave careful consideration to future demand for places when setting its revised admission number. It has provided figures which show that demand for places from primary school pupils within its previous community area over the next four years is unlikely to exceed 194. These projections are based on current primary school rolls and established patterns of primary to secondary transfer. In recent years, the school has admitted between five and eight children from within the Denton Primary community area and anticipates that this pattern will continue. The school believes this data shows that its proposals will enable all pupils who wish to obtain a place at the school to obtain one while allowing it "*to provide a cost effective curriculum model*".

12 When setting its new community area the school took into account that it already admits pupils from the Denton Primary community area. It states that "*a percentage of Denton parents seek clarification from Seaford Head Community College as to whether their child can be admitted as they live outside the community area*". It believes that having a shared community area "*would help to clarify this for parents.*"

The Response of the Council

13 The council set out its position in a letter to OSA dated 25 May 2012. The council confirmed that an officer had been present at meetings at the school at which the new admission arrangements were discussed but noted that none of the minutes of these meetings had recorded the fact that the council officer believed that the extension of the community area and the reduction in admission number "*appeared to be contradictory.*"

14 The council provided its own pupil number projections (based on the data available in January 2012) for the school which indicates that, with an admission number of 210, the school is likely to be over-subscribed for the foreseeable future. While it confirms the current Year 7 roll as 220 it gives an intake figure for September 2012 of 216 (as of 25 May 2012), 10 more than the figure provided by the school (in an email dated 18 May 2012).

15 The council "*understands why Seaford Head believes that reducing their PAN to 210 may help them manage their resources more effectively*" while also noting that the reduced admission number will potentially reduce

the school's budget share by "*approximately £650k over a five year period based on current funding.*"

16 The council also provided a copy of an email from the school's headteacher to its chair of governors dated 28 February 2012 which was copied to the council. In it, the headteacher states "*the main reason for reducing the PAN was concern over in year casual admissions and the impact on performance data/learner outcomes at KS4.*"

Consideration

17 The objector refers to the changes to the school's admission arrangements as being against the spirit of the Code. I have considered this view against the requirements as set in paragraph 14 of the Code which says, "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and criteria used to decide the allocation of places are fair, clear and objective. Parents should be able to look at a set of criteria and understand easily how places for that school will be allocated*" and paragraph 1.8 which says, "*Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.....*"

(i) Consultation

18 Paragraph 1.3 of the Code requires an admission authority to consult in accordance with the requirements of the Code if it wishes to reduce its admission number. The school formally discussed its admission arrangements for September 2013 at a meeting of the governing body's admissions panel meeting on 9 November 2011. A council representative was present at, and contributed to, the meeting. It was agreed that the council would conduct the consultation exercise on the proposed new admission arrangements.

19 Consultation lasted for an eight week period (23 December 2011 to 29 February 2012) as required. The school's governing body met on 19 March 2012 to consider the outcome of the consultation. The minutes of this meeting show that the governors agreed to proceed with the decrease in admission number from 240 to 210 and to "*have a shared catchment area with Tideway School.*"

20 During the consultation period the school received two objections to its proposals, one from Tideway School and one from the chair of governors of Denton Community Primary School (via a letter dated 25 February 2012). The proposals included extending the school's community area to include the community area of Denton Primary School, an area currently included in the community area of Tideway. While the objection from Denton did not refer to any specific breach of the Code it focused on a possible reduction in choice

for local parents and a belief that the school was “*adopting selection by the back door*”.

21 The school wrote to both objectors, inviting them to visit the school to discuss their concerns. The school states that these invitations were not accepted but that both objections were given due consideration before the final arrangements were determined.

22 I asked the school and the council to confirm that the consultation exercise met the requirements of paragraph 1.44 of the Code and both parties confirmed that it had. I have noted these statements and the fact that the objector does not refer to any breaches of procedure and I have therefore concluded that the consultation exercise met the requirements of the Code.

(ii) *The Decreased Admission Number*

23 Tideway School argues that the decreased admission number will make the school “*instantly over-subscribed thus denying choice to some parents at transfer from year six and denying choice to later, casual admissions.*” They believe this change is being made to accommodate post sixteen provision and that it runs “*contrary to the intention and spirit*” of the Code.

24 The school and the council have provided different data about future demand for places at the school. The council’s data (based on the current community area) shows likely Year 7 roll figures to be consistently over 210 with a low point of 213 in 2013/14. The school’s data shows Year 7 entry figures (based on the extended community area) for the next four years of between 192 and 199 pupils.

25 The council has an established methodology for projecting pupil numbers which is applied to all schools in its area while the school has made its own, unvalidated, assumptions about numbers transferring from particular primary schools. I note that the Council’s current actual Year 7 entry figure for the school, 216, is close to the projected figure of 220 and that the school’s roll calculations contain some arithmetical errors. Because I believe the council’s data is better validated and more accurate, I conclude that I should give more weight to the council’s data than to the school’s.

26 The council’s data shows that the school admitted more than 210 Year 7 pupils in 2011 and that it is likely to do so in 2012 and for the foreseeable future. The clear implication is that, with an admission number of 210, the school is likely to be over-subscribed. This could have negative consequences for families living towards the edge of the school’s community area who, despite expressing a preference for a place at the school, may not be offered one because of the distance of their home to the school. As it is likely that such parents will not live in the community area of any other school, they would be doubly disadvantaged. Whilst it is incorrect to say that the reduction

in the school's admission number will reduce parental choice it is highly likely that the proportion of parents who are offered their preferred choice will be reduced.

27 The objector is concerned about the impact of the reduced admission number on in-year admissions. The email from the school's headteacher to the chair of governors makes it clear that the wish to limit in-year admissions is, in her opinion, the main driver of the need for a new admission number. Given the fact that the reduced admission number will result in the school becoming over-subscribed this will indeed be the impact and any families moving into the school's community area are likely to find that they are unable to access a place in that area's designated school.

28 In terms of the "*spirit*" of the Code, paragraph 14 deals with the "*overall principles behind setting arrangements.*" It states "*In drawing up their admissions arrangements, admission authorities must ensure that their practices and the criteria used to decide the allocation of school places are clear, fair and consistent.*" The admission number forms part of the school's admission arrangement practices and I believe that these principles should apply to it.

29 Given the demand for places at the school, I believe that the reduction of the admission number from 240 to 210 is likely to be unfair to families who currently live in the community area but whose homes are furthest from the school, as well as to most of those who move into the community area after their child has reached the normal primary to secondary school transfer date.

30 In its response to me, the school stated that its motivation for reducing its admission number was to enable it to manage its resources and its curriculum effectively. I note the council's conclusion that the reduced admission number would reduce the resources available to the school by some £650k over five years and that the "*main reason*" for the change as set out in the headteacher's email referred to above is to reduce in-year admissions rather than to enable the efficient management of resources. It is for a school to manage its organisational arrangements within the resources available to it. I note the fact that the school is prepared to sacrifice revenue resources to reduce its admission number, that the net capacity assessment for the school shows an indicated admission number of 240, and the fact that I have mixed messages about the motivation for the change.

31 The school has not convinced me that the existing admission number places any unreasonable pressures on the school's ability to manage its resources.

32 It is true that the school is seeking to establish post 16 provision in September 2013 via a free school bid to DfE. If successful, the resultant provision is likely to be on a third and new site making this new provision independent of the school's existing capacity.

33 I believe that, whilst the the reduced admission number will not reduce parental choice, it is likely to reduce the ability of families who live within the community area, but who live furthest from the school, to obtain a place for their child at the school. I also believe that there is no good reason for this reduction as maintaining the previous admission number is unlikely to have the adverse consequences for managing its resources that the school suggests and the net capacity assessment for the school shows it has the accommodation to cater for an intake of 240. I therefore conclude that the reduced admission number is unfair and does not meet the requirement of paragraph 14 of the Code.

(iii) Enlarged Community Area

34 Tideway School also objects to the decision of the school's governing body to extend its community area to include the community area of Denton Primary School within it. This community area previously lay solely within the community area of Tideway. Under the new arrangements it would be included in the community areas of both Tideway and the school itself (an arrangement found elsewhere in East Sussex). Tideway points out that Denton is one of only three primary schools associated with Tideway and that Denton is "*within the Newhaven area*" and is "*significantly closer to Tideway than to any other secondary school including Seaford Head.*" They also believe this change "*does nothing to increase parental choice.*"

35 The Code's requirements on consultation about such changes to catchment areas are the same as the general requirements referred to above and the evidence shows that these were met by the school. Paragraph 1.14 of the Code requires that catchment areas must be designed to be "*reasonable and clearly defined.*" The extension of the catchment in this case was clearly defined during consultation and is clearly defined on the ground. It is contiguous with the pre-existing catchment area and the school already draws pupils from within the proposed newly extended area. I therefore conclude that this change meets the requirements of the Code in relation to both consultation and catchment area design.

36 At present, there are 22 Year 6 pupils at Denton of whom six have expressed a preference for a place at the school. Given the following facts:

- according to the Council's projections, Tideway is likely to be under-subscribed until 2018;
- according to the same projections, the school (with a roll of 240) will be under-subscribed for the foreseeable future by a minimum of 15 places until 2018; and,
- that any increased demand from within the Denton area can be met at the school without there being any knock-on negative effect elsewhere within the school's community area.

I do not believe that the changed community area will make any difference to the chances of all families who live within it being able to obtain a place for their child at the school.

37 It is clear that there is already some demand from parents in the Denton community area for places at the school. The school's new community area should result in parents being clearer about the chance of their child obtaining a place at the school should that be their preference.

38 I conclude that the decision to extend the community area meets the requirements of the Code and is more likely to increase parental choice than to reduce it.

(iv) Other Matters

39 The admission arrangements do not include a tie breaker as required by paragraph 1.8 of the Code. Paragraph 1.47 Code requires an admission authority to publish, when agreed, its admission arrangements on its web site while paragraph 1.46 requires admission arrangements to be determined by 15 April every year. On 24 May 2012 I was unable to find the school's admission arrangements on its website. They must be so published as soon as is practically possible.

40 Paragraph 1.6 of the Code states that "*All children whose statement of special educational needs (SEN) names the school must be admitted.*" The school's admission arrangements do not include a statement to this effect and they must be revised so that they do so.

41 The admission arrangements include the following statement "*Once criteria i to vi have been applied to other applicants and offers have been made subsequent to the offer date for secondary admissions, the school may offer places to children of staff*". Paragraph 1.39 of the Code permits a school, in certain circumstances, to include children of staff in their oversubscription criteria and the wording of the criterion itself meets the requirements of the Code. However, the arrangements as they stand do not include a criterion vi and the criterion relating to the children of staff is not numbered. To avoid any confusion, children of staff should be formally numbered as an oversubscription criterion

Conclusion

42 For the reasons set out above I uphold the objection to the reduced admission number and reject the objection to the extended community area. I believe that the requirements of the Code in relation to consultation have been met. I have considered the new arrangements as a whole and have concluded that the school must add an appropriate final tie breaker, publish its admission arrangements on its web-site, include a clear statement that all children whose statement of SEN names the school will be admitted, and

clearly show the priority afforded to children of staff within the school's oversubscription criteria.

Determination

43 In accordance with section 88H (4) of the School Standards and Framework Act 1998 (the Act) I uphold the objection to the reduced admission number and do not uphold the objection to the extended community area which both form part of the admission arrangements determined by the Governors of Seaford Head Community College.

44 I have also used my power under section 88I (5) of the Act to consider the admission arrangements as a whole and determine that they do not comply with the School Admissions Code in that the arrangements:

- (i) do not include a clearly defined tie-breaker;
- (ii) are not published on the School's web-site;
- (iii) do not include a clear statement that all children whose statement of special educational needs (SEN) names the school will be admitted; and,
- (iv) do not number the oversubscription criterion relating to children of staff to show its priority within the oversubscription criteria.

45 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 as quickly as possible.

Dated: 18 June 2012

Signed:



School Adjudicator: John Simpson