



DETERMINATION

Case reference: ADA2842
Admission Authority: The London Borough of Redbridge
Date of decision: 18 May 2015

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the London Borough of Redbridge for selective (grammar) schools for September 2015 and 2016. 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 authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection was referred to the adjudicator by a parent about the admission arrangements (the arrangements) for Ilford County High School (the school), a selective community school for boys aged 11 to 18, for September 2016. The objection was that boys who live outside of the school's catchment area are not allowed to sit the eleven plus test for a place at the school.
2. The objection was made on 23 March 2015. Papers received on 13 April 2015 from the London Borough of Redbridge, the local authority (the LA), which is the admission authority for the school showed that the LA determined the 2016 arrangements on 7 April 2015. I cannot consider an objection lodged before the arrangements had been determined because what had been determined might be different to proposed arrangements available beforehand. I therefore asked the parent if, now the arrangements for 2016 had been determined, the objection still stood. The parent said that the objection was to the 2015 arrangements not 2016 as had been stated on the form which had been submitted.

Jurisdiction

3. To be considered under section 88H of the Act as specified by regulation 23 of the School Admissions (Admission Arrangements and Co-ordination

of Admission Arrangements) (England) Regulations 2012 objections to the 2015 arrangements should have been lodged by 30 June 2014, I am not therefore able to consider the objection to the 2015 arrangements under that part of the Act. However, having had the arrangements brought to my attention, it appeared to me that they may not conform with requirements relating to admission arrangements and that I should use my power under section 88I(5) of the Act to consider them.

4. As the arrangements for 2016 had now also been brought to my attention and appeared to be the same as those for 2015, other than an increase in the published admission number (PAN) and some different wording on waiting lists, I have considered the arrangements for both years together. This determination applies to both the 2015 and 2016 arrangements for selective community schools in the LA.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the referral made on an objection form dated 23 March 2015;
 - b. the LA's response to the referral and associated documents received on 13 April 2015 and subsequent correspondence;
 - c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - d. a map of the area identifying relevant schools;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meetings of the LA at which the arrangements were determined; and
 - g. a copy of the determined arrangements.

Matters for consideration

7. The referrer said that the LA did not allow children who lived outside the catchment area to sit the eleven plus test for the school as it is oversubscribed. This was considered to be unfair and discriminated against children who live outside the catchment area.
8. When I looked at the arrangements for the school it appeared to me that they may not comply with paragraph 1.20 of the Code. This paragraph sets conditions for grammar schools that use factors other than test scores as oversubscription criteria.
9. The details about the waiting list did not appear clear to me and I thought

they may not comply with paragraph 2.14 of the Code.

10. I also considered that the admission arrangements for the sixth form may not comply with the Code because there appeared to be no PAN for Year 12 as required by paragraph 1.2 of the Code. In addition, the application forms used by both the selective schools appeared to request information that is prohibited by paragraphs 2.4 and 1.9 of the Code and that students joining the school in Year 12 may have to meet different academic standards to those continuing from Year 11 which would contravene paragraph 2.6 of the Code.

Background

11. The school is a selective school for boys aged 11 to 18; the PAN for September 2016 will be 180, an increase from the figure of 120 in 2015. The school is oversubscribed with the number of boys sitting the entrance exam in the last three years being 886, 876 and 922 respectively. There is a selective school for girls, Woodford County High School, in the LA which has the same admission arrangements, shares a common catchment area and is also heavily oversubscribed.
12. The admissions process for a place at one of the selective schools requires parents to register their children for the eleven plus test during May and June while in Year 5 at primary school. The test is taken in September during Year 6 and parents are advised of their child's score in the test before the end of October. The lowest test score on which children were admitted to both schools in recent years is published in the composite prospectus so parents have an indication of their child's chance of being offered a place ahead of the deadline for applications for Year 7 places.

Consideration of Factors

Testing of children living outside the catchment area

13. The referral said it is unfair and discriminatory for the LA to prevent children who live outside the catchment area from sitting the test. I have noted that the catchment area is not limited to the borough and extends into neighbouring authorities. The LA has explained that the catchment area was set to be "*consistent with major barriers, such as railways, rivers and roads, and taking account of bus routes, safe walking routes and areas of population*" as well as "*traditional links with the area the schools serve*". The reasonableness of the catchment area itself has not been questioned.
14. In its response to the referral, the LA has said that children living outside the catchment area are not prevented from applying for the schools. It continues to say "*If parents live outside this catchment area, consideration for a place at one of these schools will be given after all the requests for places from those resident within the catchment area have been met*". In the composite prospectus for 2015 the LA says "*Children from outside the catchment will only be tested if places cannot be filled from those resident*

within the catchment. Given the high number of applicants from within the catchment, this is very unlikely. It may be unlikely that any places would be left for applicants from outside the catchment area, but the LA should still set out how and when any testing for applicants from outside the catchment area would be carried out in time to comply with paragraph 1.32c of the Code. This paragraph says admission authorities **must** *“take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on 31 October so as to allow parents time to make an informed choice of school - while making clear that this does not equate to a guarantee of a selective place.”*

15. Paragraph 14 of the Code says *“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”* The determined arrangements for 2016 say in paragraph 2.2, referring to selective schools, *“If parents live outside this catchment area, consideration for a place at one of these schools will be given after all the requests from those within the catchment area have been met.”* Then in paragraph 2.9 in the same document it says *“Selective tests will only be arranged for children whose parents certify that they intend the child to be resident within the common catchment area continuously until the deadline for expression of preferences.”* If tests will *“only be arranged”* for those living in the catchment area, it is not clear to me, and therefore may not be to parents, how consideration will be given to those living outside the catchment area.
16. In its response to the referral the LA set out a number of practical considerations if it had to test children from outside the catchment area. First among these is that they consider the potential number of children to be tested would be unmanageable. They argue that the large numbers of applicants would require the test to be across several days and locations incurring greater cost and undermining the integrity of the testing process.
17. The LA continues to say that testing more applicants would create expectations for children living outside the catchment area as high scoring children living within the catchment would be given higher priority for places. It considers that removing the catchment area would create *“elitist schools, divorced from their local area and community.”*
18. I have looked at the sections of the Code which apply to selective grammar schools. In particular I have noted paragraph 1.19 which says *“Where arrangements for pupils are wholly based on selection by reference to ability and provide for only those pupils who score highest in any selection test to be admitted, no priority needs to be given to looked after children or previously looked after children.”* And paragraph 1.20 which says *“Where admission arrangements are not based solely on highest scores in a selection test, the admission authority **must** give priority in its oversubscription criteria to all looked after children and previously looked after children who meet the pre-set standards of the ability test.”*
19. These paragraphs say that pupils can be selected either entirely by ability using the rank order in a test to allocate places, or by using a combination

of a selection test and other factors to prioritise applicants who meet a pre-set standard. The LA has said it does not want to admit on the basis of test scores alone so has set a catchment area to give priority to children living in the local community; paragraph 1.20 therefore applies. The arrangements do not include pre-set standards of ability, or allow priority for looked after or previously looked after children who meet them and therefore they do not comply with paragraph 1.20 of the Code.

20. Whether the LA chooses to follow the approach in paragraph 1.19 or 1.20 of the Code I do not accept it can avoid allowing all applicants to sit the test. Paragraph 15d of the Code says “*a parent can apply for a place for their child at any state-funded school in any area*” and continues “*When oversubscribed, a school’s admission authority **must** rank applications in order against its published oversubscription criteria*”. The final sentence of paragraph 1.7 of the Code says that following consideration of looked after and previously looked after children “*Oversubscription criteria **must** then be applied to all other applicants in the order set out in the arrangements.*” (My emphasis added by underlining).
21. The LA provided me with the number of boys living outside the catchment area who registered for the test in the last three years. The numbers were 26, 62 and 72 respectively. While increasing, this number is still less than 8 per cent of the number tested in any year and does not support the argument put forward by the LA about the practical and cost considerations of testing all applicants. The LA’s wish for the school to serve its local community is valid; however the admission arrangements do not comply with paragraph 1.7 of the Code as the oversubscription criteria must be applied to all (my emphasis) applicants and it is not possible to do this if they have not all sat the test.

Waiting lists

22. The Code says in paragraph 2.14 “*Each admission authority **must** maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date their application was received or their name was added to the list. Looked after children, previously looked after children, and those allocated a place at the school in accordance with a Fair Access Protocol, **must** take precedence over those on a waiting list.*” It is also necessary for parents to be able to easily understand how the waiting list will work to comply with paragraph 14 of the Code.
23. The arrangements for 2015 and 2016 have two paragraphs in common referring to waiting lists for the LA’s selective schools. The first, paragraph 2.10, says in the section on admissions to selective schools, “*Applicants who move into the common catchment area for the selective schools after the application deadline for school places who did not have the opportunity to register shall be included in tests to be held after the main offer date. Children deemed selective after these tests shall be placed on a waiting list, in order of total standardised scores with distance as a tie-breaker,*

until a suitable vacancy arises.” The term “*deemed selective*” is used in this paragraph, this is a new term which is not part of the oversubscription criteria, so should not be used to order the waiting list, and as it is not defined it is unclear for parents.

24. The need to be “*deemed selective*” does not appear in paragraph 2.14 of the arrangements for the selective schools which says “*When a vacancy arises, it will be offered to the next highest qualifying candidate according to the total standardised score in overall order of merit. Where there is more than one candidate with the same score, the tiebreak will be the shortest measured walking distance*”. Although this is clear, it makes no reference to children living in the catchment area having priority over those who do not, although if those from outside the catchment are not allowed to sit the test, they cannot be placed on the waiting list in no matter how low a position against the oversubscription criteria.
25. The arrangements for selective schools in 2016 have an additional paragraph 2.15, which adds confusion when it says “*A waiting list will be maintained to allocate a vacant place to a candidate who was within 50 places of the last place offered. Should two or more candidates achieve this standard, the place will be offered to the candidate with the highest qualifying total standardised score.*”
26. My interpretation of this is that unless a child was within 50 places of the last one to be offered a place at the school (that is for 2016 in the top 230 places in the test) they are deemed not to have reached the standard required to attend the school and are not given a place on the waiting list. The Code allows selective schools to set a threshold level of ability and to leave places empty if not enough applicants meet this level. There is no mention of a minimum level of ability in the oversubscription criteria themselves, although to comply with paragraph 1.20 there should be, and the Code requires the waiting list to be ordered using the oversubscription criteria.
27. Paragraph 3.7 of the 2015 arrangements describes the process for allocating vacant places in which late applicants are given priority over children already on the waiting list. The Code requires a waiting list to be in place until the end of December in the admission year and prohibits using the date of application to give priority on that list. Any applicant who is added to the waiting list must be added against the oversubscription criteria which means a child’s position on the waiting list can go up or down.
28. As I found the description of how the waiting lists for the selective schools operate to be unclear, I asked the LA to clarify it. In an email of 24 April 2015 the LA said “*We keep the waiting lists for both grammar schools on the basis of the admission arrangements i.e. children are ranked initially on the basis of their score and if several have the same score (which is to two decimal places), we then rank them on distance. Should there be any children with the same score and exactly the same distance, we don’t use random allocation as we do for other final tie-breaks but we have allowed both to be admitted in the past.*” This is clear but does not reflect exactly

what is set out in the arrangements as there is no reference to having to meet a minimum standard. The LA's statement also makes no reference to children living in the catchment area having priority over those who do not which it should in order to follow the oversubscription criteria.

29. The arrangements for the waiting list for 2015 and 2016 that I have seen do not comply with the Code. New terms are introduced in the description of the waiting lists which are not defined and the description of the operation of the waiting list is not clear as required by paragraph 14 of the Code. The waiting lists do not comply with paragraph 2.14 of the Code because it requires waiting lists to be ranked in order of the oversubscription criteria, the arrangements introduce a threshold standard for the waiting list which does not exist in the oversubscription criteria.

Sixth Form Arrangements

30. As it is permitted to do, the LA delegates the management of admission to the sixth form to the schools. The arrangements themselves are determined by the LA. Sixth form admissions are subject to the Code.
31. I have noted that in the LA's determined arrangements for 2016 a PAN of 35 is given for the school, although it is noted in the papers I have been sent that this is "*to be determined for 2016*". The composite prospectus for 2015 simply refers parents and students to the schools for information on admission to the sixth form. On 22 April 2015 I looked at the school's website, under a heading of "*Sixth Form Prospectus and Application Pack*" it begins "*We admit approximately 75 external students into the Sixth Form every year.*" Paragraph 1.2 of the Code says "*As part of determining their admission arrangements, all admission authorities must set an admission number for each 'relevant age group'*". It is not clear to me what the PAN for the sixth form is, or indeed whether or not it has been set as required by the Code.
32. In the LA's sixth form oversubscription criteria, which the schools administer on its behalf, it includes priority for students continuing into the sixth form from Year 11. The LA has drawn my attention to this itself in an email of 20 April 2015 it said "*You will note that internal candidates are also included in the list of applicants in section 4 [the section on sixth form admissions in the determined arrangements for 2016]; the borough had found there was confusion for parents, and some schools, if internal applicants appeared to be omitted from the sixth form policy.*"
33. Paragraph 2.6 of the Code makes it clear that any Year 11 student who meets the required academic standard may continue into Year 12, there is no admission process for them as they are already on the school's roll. The PAN and oversubscription criteria apply to students who wish to join the school roll in Year 12. I do not agree with the LA's argument as it should be possible to set the position out clearly alongside a single PAN and the oversubscription criteria for external applicants so parents, and students, can understand easily how places at the school will be allocated in accordance with paragraph 14 of the Code.

34. The LA's arrangements for 2016 say in the section on admissions to sixth forms in paragraph 4.7 "*Where there are more external applicants than places available, applicants will be ranked according to their predicted grades/capped average point scores.*" Paragraph 2.6 of the Code allows schools to set an academic entry level for the sixth form. However, it continues by saying that this must be the same for internal and external places. I have considered whether these arrangements comply with this paragraph. Internal applicants simply have to achieve the threshold set for their course, while external applicants must do more. They are required to achieve this threshold and to have predicted grades or capped average point scores high enough to place them within the PAN. This does not comply with paragraph 2.6 of the Code.
35. When I looked at the school's website I found an application form for September 2015; no application form was available for 2016 when I looked. Paragraph 2.4 of the Code says that such application forms **must** only "*request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.*" And they **must not** ask for any of the information prohibited by paragraph 1.9 of the Code or details about an applicant's special educational needs.
36. Paragraph 1.9 of the Code says admission authorities **must not** "*b) take into account any previous schools attended, unless it is a named feeder school*" or "*g) take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement, or that of any other children in the family*".
37. The application form which I found on the school's website asks for details about the applicant's present school, which are not relevant to decisions about oversubscription criteria and is prohibited by 1.9b of the Code. As the form is designed to be sent via the applicant's current school it is not clear how any applicant not currently at school, for example home educated children, might apply. It also asks for a reference from the current school covering: behaviour, conduct, attendance, punctuality, attitude to staff and peers, initiative, perseverance, attitude to study and ability to meet deadlines. Further boxes on the reference form are for comments on special needs and suitability for courses. This application form includes matters in contravention of paragraph 1.9 and does not comply with the requirements of paragraph 2.4 of the Code.
38. I have also looked at the application form for the sixth form at Woodford County School, the selective grammar school for girls in the LA and covered by the same admissions arrangements. This asks the applicant for a photograph, details of their current school, the name of a referee and their unique personal number (UPN). Paragraph 1.9 prohibits photographs being requested as it does consideration of other schools attended or references as set out above. None of these or the UPN are required to make decisions about oversubscription criteria and so this application form does not comply with paragraph 2.4 either.

Conclusion

39. The Code allows selective schools to select their pupils entirely on the basis of ability and to admit those who scored highest in a selection test. Alternatively, the Code also allows selective schools to take other factors into account and set oversubscription criteria for children who meet pre-set standards in an ability test. These arrangements take into account where a child lives as well as their performance in an ability test. They are therefore subject to paragraph 1.20 of the Code which for the reasons set out above the arrangements do not comply.
40. The Code allows parents to apply for school places in any area no matter where they live. The Code in paragraph 1.7 requires admission authorities to apply oversubscription criteria to all applicants. In order to apply the oversubscription criteria to all applicants, all of them must have a test score. To refuse to test an applicant who does not live in the catchment area does not therefore comply with the Code.
41. The operation of the waiting list for the school as described in the LA's composite prospectus for 2015 and in the arrangements for 2016 is not clear and for that reason does not comply with paragraph 14 of the Code. Practices for the waiting list set out in the documents provided do not comply with paragraph 2.14 of the Code.
42. The admission arrangements for admissions in 2015 and 2016 to the two schools' sixth forms do not comply with paragraphs 1.2, 1.9, 2.4 and 2.6 of the Code as set out above.

43. Determination

44. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the London Borough of Redbridge for selective (grammar) schools for September 2015 and 2016. I determine that they do not conform with the requirements relating to admission arrangements.
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 within two months.

Dated: 18 May 2015

Signed:

Schools Adjudicator: Phil Whiffing