



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2952

Objector: Transform Reading and Kendrick

Admission Authority: The Academy Trust for Kendrick School, Reading

Date of decision: 11 September 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the academy trust for Kendrick School, Reading.

I have also considered the arrangements in accordance with section 88I(5). I determine that some aspects 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 has been referred to the adjudicator by Transform Reading and Kendrick (TRAK), the objector, about the admission arrangements for September 2016 (the arrangements) for Kendrick School (the school), a selective academy school for girls aged 11 to 18 in Reading. The objection is to the consultation held on the arrangements, aspects of the selection process and the catchment area.

Jurisdiction

2. The terms of the academy agreement between the academy trust 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. These arrangements were determined by the governing body on behalf of the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined

arrangements on 28 June 2015. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

3. I have also used my power under section 88I(5) 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:
 1. the objector's letter of objection dated 28 June 2015 and subsequent correspondence;
 2. the school's response to the objection dated 13 July 2015, supporting documents and subsequent correspondence;
 3. the response from Reading Borough Council, the local authority (the LA) dated 13 July 2015;
 4. a map of the area identifying relevant schools;
 5. confirmation of when consultation on the arrangements last took place;
 6. copies of the minutes of the meeting at which the arrangements were determined; and
 7. a copy of the determined arrangements.

The Objection

6. There are five elements to the objection as summarised by the objector that:
 1. the school may not have consulted on its arrangements as required by paragraphs 1.42 to 1.45 of the Code;
 2. the use of standardisation of test results may have masked a gradual long-term increase in the level of attainment required to secure a place and this may not comply with paragraph 14 of the Code;
 3. the school does not provide a map of the catchment area so the extent of the catchment area is not clear as required by paragraph 14 of the Code;
 4. the selection of applicants from a wide geographic area only on the test score when there are many deprived areas near to the school is contrary to paragraph 1.8 of the Code; and
 5. by admitting pupils from a wide geographical area the arrangements may be incompatible with the school's funding agreement.
7. The objector submitted the same objection to the admission arrangements of Reading School which is addressed in a separate determination.

Other Matters

8. When I received the determined arrangements from the school it appeared to me that they did not, or may not comply with the Code in several ways:
 1. priority is given in the oversubscription criteria to girls from a family in receipt of income support or entitled to claim free school meals. This may not comply with paragraph 1.9f of the Code;
 2. there appeared to be no tie-breaker to decide between two applications which could not be otherwise separated as required by paragraph 1.8 of the Code;
 3. the academic entry requirements for external places in Year 12 may not be the same as those for internal places as required by paragraph 2.6 of the Code;
 4. the oversubscription criteria for Year 12 may not comply with paragraphs 1.6 and 1.9f of the Code; and
 5. the waiting list for Year 12 may not comply with paragraph 2.14 of the Code.

Background

9. The school became an academy in 2011; it has a published admission number (PAN) of 96 for Year 7 and 39 for Year 12. The school has a designated area, which runs either side of the M4 from Newbury in the west to Windsor in the east. The designated area includes Basingstoke in the south and High Wycombe in the north. The area is almost circular with the school at its centre; the radius of the area is about 25 kilometres (15 miles). I have taken this area to be what is usually referred to in the Code as a catchment area.
10. The school is normally oversubscribed for Year 7. Applicants for 2016 will sit a test in September 2015, the results of which are sent to parents in time to inform the preferences made on the common application form at the end of October. A qualifying score is determined and applicants on or above that score are deemed to have reached a standard suitable for a grammar school. After the admission of any girl who meets the standard and has a statement of special educational needs or an Education, Health and Care Plan (EHCP) naming the school, oversubscription criteria are applied to those girls who meet the standard.
11. The oversubscription criteria can be summarised as
 1. Looked after or previously looked after children.
 2. Children living in the designated area who are from “*a family in receipt of Income Support and/or entitled to claim free school meals*” or is in receipt of the Service Premium.
 3. Other girls living in the designated area.
 4. Other girls.

12. Within each criterion girls are ranked according to their test score, with the distance from home to school being used as a tie-breaker, the shortest distance taking priority.

Consideration of Factors

Consultation

13. The objector said that towards the end of 2014 through monitoring the school's website it became aware that the school was consulting on its admission arrangements for 2016. The objector set up a website to promote debate and organised a petition asking the school to change its arrangements to benefit local communities. The objector alerted the local media and the issues were discussed on television and radio.
14. The objector claimed, supported by a page from a local on-line newspaper, that four days from the end of the consultation period the school made it publicly known that to make any changes to the designated area a full consultation would be required.
15. In its response the school said it consulted on its arrangements for 2016 because it wanted to include pupil premium in its oversubscription criteria, it was not proposing any changes to its designated area. The pupil premium is additional funding given to state funded schools in England to raise attainment of disadvantaged pupils. It is paid to schools according to the number of its pupils who are looked after by the LA, who have left LA care through adoption, a Special Guardianship, Residence or Child Arrangements Order or registered for free school meals at any time in the last six years. It published the proposed policy on its website from 26 November 2014 to 28 February 2015 and sent a copy to the LA for inclusion in its consultation process.
16. The LA has confirmed that on the school's behalf it circulated a link to the proposed policy across the borough and to admission authorities outside the borough which were within the relevant area. The LA also informed me that as part of the consultation they ask schools to include information about consultation in newsletters to parents. The LA has an admissions forum which discussed the arrangements at their meeting in January 2015 and is of the view that the school followed the requirements of the Code with regard to consultation.
17. Paragraph 1.43 of the Code requires that consultation on admission arrangements for 2016 "**must be for a minimum of 8 weeks and must be completed before 1 March 2015.**" The school has met this requirement.
18. The subsequent paragraph in the Code sets out who **must** be consulted.

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

b) other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;
c) all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);
d) whichever of the governing body and the local authority who are not the admission authority;
e) any adjoining neighbouring local authorities where the admission authority is the local authority; and
f) in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.”

19. An academy is entitled to employ a LA, another organisation or person to undertake consultation on its behalf. The academy remains responsible for ensuring their agent does consult as required by the Code. The objector has questioned the evidence of consultation with parents of children aged between two and eighteen or with other admission authorities in the relevant area. I accept the word of the LA that they did send the proposed arrangements to all admission authorities in the relevant area. Consultation with parents other than those with children already at the school is more difficult and relies on other bodies disseminating the information. I have no reason to doubt that the LA did send the proposed policy to schools in the borough and asked them to inform parents about the consultation.
20. It could be argued that the school should have been more proactive in November 2014 and perhaps issued the press release at the start of the consultation rather than mid-way through, but it is not required to do so. I am satisfied that the school took reasonable steps to consult with parents through third parties, but it does not appear to have checked that these were followed through. The campaign organised by the objector produced a petition containing 611 signatures, and led to coverage in the local media. I have no doubt that the consultees listed in the Code would have been aware of the consultation and the issues even if it was not through the school's sole efforts.
21. Paragraph 1.45 of the Code says *“For the duration of the consultation period, the admission authority must publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought”*. The objector provided me with a copy of the school's webpage used for the consultation. This does not say that the school was only consulting on introducing priority for children in receipt of pupil premium, or that it was not seeking comments on any other part of its arrangements. It was therefore legitimate for the objector to comment on the designated area and to expect the school to take views on the designated area into consideration when determining the arrangements.
22. Minutes of meetings at which the school's governors discussed the consultation responses show that views expressed about the

catchment area were discussed. One minute says "*The school will review the designated area as outlined in the attached notes and changes (if any) will be subject to a full consultation process.*" I do not see how the school could do more than this. It would not be justified in changing the designated area on the basis of this consultation which has only indicated to the school that there is some dissatisfaction with the present area. For every child who would gain priority in the oversubscription criteria through a change in the designated area, another would lose priority. Therefore before bringing forward proposals to change its designated area, the school would need to model the impact of various options and decide on one or more preferred options for consultation. This would be the full consultation referred to by the school and would require considerable preparation and planning if the school decided to go ahead with it. This could not have been completed in the timescale for 2016. The school may choose to do this in the future; however there is no requirement on the school to consult on their admission arrangements more than once in seven years.

23. In my view the school took reasonable steps to consult as required by the Code. It might be criticised for not being precise about what it was consulting on and over reliance on third parties disseminating information to parents effectively. The school may wish to reflect on this next time it undertakes consultation. However, there is evidence of widespread discussion about the school's admissions policy in the media which would have led to all required consultees being aware of the issues and able to submit comments on them. I am satisfied that the school did take into account comments received during consultation before determining the arrangements. I do not uphold this part of the objection.

Standardisation of test results

24. The objector asked me to consider "*Whether the schools' use of 'standardisation' without reference to any fixed level of achievement which has masked a gradual long term increase in the level of attainment needed to secure a place is contrary to section 14 of the code.*" The objector quoted an article from the National Foundation for Educational Research (NFER) on standardisation of tests. This article explained how standardisation can be used to either place test takers' scores on a readily understandable scale or so that an allowance can be made for the different ages of the pupils.
25. The objector argued that in the 1990s the majority of the children at the school came from Reading and about a quarter of children in the town reached the standard suitable for a grammar school. Based on 2011 census data they claim that less than 4 per cent of local children are now admitted to the school.
26. The argument presented by the objector is that by only comparing applicants against each other and not against the population as a

whole this has masked an increase in the standard which is regarded as suitable for a grammar school. The objector considers the method of calculating standardised scores to be “*highly unorthodox*” and developed an argument that tests are “*inherently inaccurate*”, and that giving results to two decimal places was an inappropriate level of precision. The objector suggested that confidence intervals should be quoted for the results so that “*the shortcomings of 11+ testing are made clear to the public.*”

27. The objector’s concern is with the methodology by which the mark reflecting the standard is set and the possibility that the standard has been changing over time without parents being aware.
28. The school uses tests supplied and marked by the Centre for Education and Monitoring (CEM). The tests cover verbal, non-verbal and numeric ability. In its response to the objection the school said it did not hold raw scores and the standardisation of the scores was undertaken by CEM.
29. The school stated that the qualifying score is included in the result letter sent to the candidates before the date on which the common application form (CAF) must be completed. With respect to the intake to the school in the 1990s the school said changes have been made to the arrangements and that former practices had been considered not to comply with the Greenwich judgement which said that pupils should not be discriminated against in relation to admission to a school simply because they reside outside the local authority area in which the school is situated.
30. Paragraph 14 of the Code which the objector cites for this part of the objection 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.*” In addition paragraph 1.31 of the Code says that “*Tests for all forms of selection **must** be clear, objective, and give an accurate reflection of the child’s ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test providing that the test is a true test of ability.*”
31. I am satisfied that by contracting with a test supplier with a long history of assessing children for various purposes the school has met the requirements of paragraph 1.31.
32. The second part of paragraph 14 in the Code says parents should be able to easily understand how places at the school will be allocated. The arrangements say the school sets a standard and girls who meet that standard are allocated places on the basis of the published oversubscription criteria. I find this easy to understand.

33. The Code would allow the school to select its entire intake on the basis of the test result alone, offering places to those who scored highest wherever they live or whatever their personal circumstances. The school has however chosen to give priority for places on the basis of other factors such as address. When a school chooses to use other factors, paragraph 1.20 of the Code requires it to give priority to looked after and previously looked after children who meet a pre-set standard. In these arrangements a test score is used to identify girls of grammar school ability that are looked after, were previously looked after or who come from low-income families or qualify for the service premium. After these children have been offered places, the majority of the places are allocated on the basis of the test score to girls living in the designated area. The mark required for most girls to be admitted will therefore be different each year as each group of girls will be different and they will take different tests. If the standard is rising for most girls it is due to the level of competition for places and not as a result of changes made by the school. I do not uphold this part of the objection.

Map of the catchment area

34. The objector asked to me consider whether the school's failure to provide a map of the designated area prevented a clear picture of the extent of the catchment area and was contrary to paragraph 14 of the Code.
35. I looked at the school's website on 3 July 2015 and was able to find a map of the designated area in the admissions pages. The objector said this is a recent addition to the website, while the LA confirmed that maps of the designated area had been available to parents at open evenings. While a map is helpful, the Code does not require one and the definition of the designated area in terms of postcode meets the requirements of paragraph 1.4 of the Code for catchment areas to be "*clearly defined*". I do not uphold this part of the objection.

Selection from a wide geographic area

36. There are two parts of the objection relating to the wide geographic area served by the school. The first is in the objector's words "*Whether the schools' method of selecting from a very wide geographic region and ranking applicants only on the score, when there are many socially deprived areas near to the schools, is contrary to section 1.8 of the admission code in that it disadvantages local applicants who have reached the necessary standard.*" The objector quotes the proportion of children at the school in receipt of free school meals as 1.5 per cent compared with 20.6 percent for Reading as a whole.
37. I have checked these figures with the data shown on the Department for Education performance tables. These confirm the value for the school, but the figure for the LA is 18.2 percent. The neighbouring authorities of Bracknell Forest, West Berkshire and Wokingham have figures of 7.5 per cent, 7.7 per cent and 5.9 per cent respectively. The school clearly takes a low proportion of girls from deprived families.

38. The objector has said that by offering places to families who live up to 25 kilometres away it will only be affluent families that can afford the travel costs to the school and these families will take places which otherwise might be available to local girls.
39. The school responded that it had introduced a new criterion in its oversubscription criteria for 2016 giving priority to girls in receipt of the pupil premium who achieve the qualifying score and live in the designated area.
40. The second of the oversubscription criteria will give priority to able girls from low-income families who live within the designated area. From the data on free school meals for each of the local authorities quoted above, most girls meeting this criterion would come from Reading itself.
41. Paragraph 1.8 of the Code says "*Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs*". By introducing the new criterion, the school has taken a step to increase the chances of an able girl from a low income family being offered a place at the school. I do not uphold this part of the objection.
42. The final part of the objection is that the size of the designated area is incompatible with the school's funding requirement to be at the heart of the community.
43. The school's funding agreement does say "*the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community*". It also says "*the school provides education for pupils who are wholly or mainly drawn from the area in which the school is situated*", this is a requirement of Section 1(6) of the Academies Act 2010. Paragraph 1.8 of the Code requires oversubscription criteria to comply with all relevant legislation.
44. The school said it works closely with local primary and secondary schools "*sharing knowledge and best practice*". It also said it had links to the University and local businesses before citing examples of how its facilities are used by the community.
45. The LA provided data on the pattern of admissions in 2015. There were 307 applications with 127 of these from Reading residents. Of these applications 76 did not meet the required academic standard and 49 were offered a place at a school which was a higher preference, leaving 182 applicants for the 96 places. Thirty of the places offered were to girls living in Reading and 26 to girls living in Wokingham, this is 58 per cent of the intake.
46. The boundary between the boroughs of Reading and Wokingham is less than two kilometres from the school and the residential areas of

Woodley and Earley, although in the borough of Wokingham, are immediately adjacent to Reading and within five kilometres of the school. Maps indicate that Woodley and Early together form the largest area of housing in the borough of Wokingham. Wokingham itself is the next nearest significant area of housing to the school.

47. Therefore over half of the places were allocated to girls who are mainly drawn from the area in which the school is situated. This complies with the Academies Act and consequently with paragraph 1.8 of the Code. I do not uphold this part of the objection.

Other Matters

Priority for girls in receipt of income support or free school meals

48. The second oversubscription criterion is "*The applicant is within the designated area of the school and is from a family in receipt of Income Support and/or entitled to claim free school meals at their current school at the time of the test or is in receipt of the Service Premium.*" Paragraph 1.9f of the Code says that admission authorities **must not** "*give priority to children according to the occupational, marital, financial or educational status of parents applying. The exceptions to this are children of staff at the school and those eligible for the early years pupil premium, the pupil premium and the service premium who may be prioritised in the arrangements in accordance with paragraphs 1.39-1.39B*".
49. Pupils eligibility for pupil premium are those looked after by the LA, who have left LA care through adoption, a Special Guardianship, Residence or Child Arrangements Order or registered for free school meals at any time in the last six years. This is not the same as being "*from a family in receipt of Income Support or being entitled to claim free school meals at their current school*".
50. The school intended the new second criterion to be for girls eligible for the pupil premium, but did not set this out as required by paragraph 1.39A of the Code. It did however include eligibility for the service premium which it is allowed to do and set this out as required by the Code.
51. The school had been advised by the LA that the wording of this criterion should be changed and it intended to do so for 2017. It has now said it will do so for 2016 if required by this determination which it is.

Tie-breaker

52. Paragraph 1.8 of the Code says "*Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.*" While it may be unlikely, two girls may have exactly the same score and live exactly the

same distance from the school, I could find no part of the arrangements which would be able to discriminate between girls in this situation.

53. The school has said it will use random allocation if this situation occurs and will add a sentence to the arrangements to this effect.

Year 12 entry requirements

54. Paragraph 2.6 of the Code requires the academic entry requirements for external places in Year 12 to be the same as those for internal places. In the admission arrangements for Year 12 an academic threshold was set for external places, but it was not clear whether the same standard was set for internal places. The school has confirmed that it is the same and has undertaken to clarify this in the arrangements.

Year 12 oversubscription criteria

55. Paragraph 1.6 of the Code requires any student with a statement of special educational needs or an EHCP to be admitted before oversubscription criteria are applied. In the arrangements for Year 12 the second criterion refers to statements and the fourth criterion repeats the wording about income support which has been discussed above.
56. The school has undertaken to amend its oversubscription criteria to make it clear that students with a statement or an EHCP which names the school who meet the academic entry requirement will be admitted before the oversubscription criteria are applied. It has also undertaken to change the wording of the fourth criterion to comply with paragraphs 1.9f and 1.39A of the Code.

Year 12 waiting list

57. Paragraph 2.14 of the Code sets the requirements for waiting lists; these apply to Year 12 as much as to Year 7. This specifically prohibits giving priority on waiting lists based on the date an application was received. The arrangements say late applicants will be placed at the bottom of the waiting list. The school has agreed to rectify this.

Conclusion

58. For the reasons set out above I do not uphold this objection. There are however a number of other ways in which the arrangements do not comply with requirements all of which the school has agreed to address.

Determination

59. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the academy trust for Kendrick School, Reading.

60. I have also considered the arrangements in accordance with section 88I(5). I determine that some aspects do not conform with the requirements relating to admission arrangements.

61. 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: 11 September 2015

Signed:

Schools Adjudicator: Phil Whiffing