



DETERMINATION

Case reference: ADA2907

Objector: A parent

Admission Authority: The academy trust for St Albans Girls' School, Hertfordshire

Date of decision: 12 October 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 for 2016 determined by the academy trust for St Albans Girls' School, Hertfordshire.

I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements as originally determined do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements and the school has already done so.

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 a parent about the admission arrangements for 2016, (the arrangements), for St Albans Girls' School, (the school), an academy school for girls aged 11 – 18 in Hertfordshire. The objection relates to the clarity of the wording in the school's oversubscription criteria.

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 academy trust, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 22 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 22 June 2015 and subsequent submissions;
 - b. the school's response to the objection and supporting documents dated 8 July 2015 and subsequent submissions;
 - c. the response of Hertfordshire County Council which is the local authority (LA) for the area to the objection dated 9 July 2015 and subsequent submissions;
 - d. confirmation of when consultation on the arrangements last took place;
 - e. copies of the minutes of the meeting at which the academy trust determined the arrangements; and
 - f. a copy of the determined arrangements.
5. I have also had regard to information provided at and subsequent to a meeting which I convened at the school on 7 September 2015 and which was attended by the objector and representatives of the school and the LA.

The Objection

6. The objection relates to the clarity or otherwise of the provisions in the oversubscription criteria which include significant elements of priority for girls who live in particular areas and/or for girls for whom the school is the "*nearest Hertfordshire non-faith, non-partially selective maintained school or academy, making provision for children under the relevant gender.*" The objector considers that nearest could mean only a school which was a girls' school or it could mean a school which was a girls' school or a co-educational school and that the arrangements are thus unclear and so do not comply with paragraph 1.8 of the Code.

Other Matters

7. When I reviewed the arrangements in the course of considering the objection I noted that some other aspects appeared not to conform with the requirements relating to admissions. These were:

- a. the arrangements give an element of priority to siblings of existing pupils but do not define siblings which appeared to breach paragraph 1.11 of the Code;
- b. the school uses a supplementary information form (SIF) for admission to Year 12 (Y12) and the SIF appeared to ask for information not necessary to apply the oversubscription criteria in breach of paragraph 2.4 of the Code and for information which is specifically prohibited by paragraph 1.9 of the Code;
- c. the arrangements did not appear to include provision for a waiting list as required by paragraph 2.14 of the Code;
- d. a prominent statement on the school's website said that the school was a community school and that admissions were administered by the LA and that the admissions criteria were determined by the LA. As the school is an academy and its academy trust is its admission authority, this appeared to make the arrangements unclear in contravention of paragraphs 14 and 1.8 of the Code; and
- e. the explanations of rules 5 and 6 of the school's oversubscription criteria appeared unclear in breach of paragraphs 14 and 1.8 of the Code;

Background

8. The school became an academy September 2011. It was previously a community school and the LA its admissions authority. On conversion to academy status the school's academy trust became the admissions authority. The school changed its arrangements with effect from September 2013 to include priority for children of staff and it carried out the consultation required by paragraphs 1.42 to 1.45 of the Code and regulations 12 to 17 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) before making this change. The school has also increased its published admission number (PAN) for Year 7 (Y7) over the past few years, but this is a change which it is permitted to make without consultation. Similarly, the arrangements have also been changed to accommodate mandatory requirements imposed by new editions of the Code (in relation to previously looked after children and those with Education, Health and Care (EHC) plans). In all other respects the school's view is that it retains – and wishes to retain – the arrangements in place when it was a community school. The arrangements for 2016 were determined on 3 March 2015. While making the point that it had not wished to change the arrangements, the school readily acknowledges that it changed the wording of the arrangements for 2016 and says that it did so in an effort to make them more comprehensible to parents.

9. The school admits girls to Y7 and girls and boys to Year 12 (Y12). It has a PAN of 210 for Y7 and 50 for Y12. The school's admission arrangements are easy to find on its website and explain that children with a statement of special educational needs (SEN) or EHC plan will be admitted. At Y7 the school is oversubscribed and for 2015, it received a total of 931 applications of which 260 were first preference applications. I have summarised the school's oversubscription criteria for Y7 below and have set out in full oversubscription criteria 5 and 6 (which the school refers to as rule 5 and rule 6) as they were determined as they are the criteria germane to the objection. In doing so I have included both the material included in the school's "summary of admission rules" and in its full "oversubscription criteria" which appeared on separate pages of its arrangements. The oversubscription criteria for the school as determined were:

Rule 1 Looked after and previously looked after children

Rule 2 Medical or social need

Rule 3 Siblings

Rule 4 Children of Staff

Rule 5: Summary: "*Children who live in the priority area by parish, on a proportional basis*" Full: **Children who live in the priority area on a proportional basis:** *Those for whom it is their nearest Hertfordshire maintained school or Academy that is non-faith and non-partially selective and makes provision for children under the relevant gender, (if more children qualify under rule 5 than other places, the tiebreak would be those who live closest to the school) [This is followed by a list of the relevant areas]."*

Rule 6: Summary: "*Any remaining places available to parish/unparished area or town*" Full: *Any remaining places to parish/unparished area or town: on a random basis. Places will be allocated on a **random basis** on the principle that every child will be allocated an individual random number once their name has been entered onto the database. If a preference is expressed for St Albans Girls' School, this number will be used in the random process."*

Rule 7 Any other children – places allocated on a random basis.

10. The arrangements also included a map showing the priority area.

11. The school has set oversubscription criteria for Y12 and has also set minimum academic entry requirements for Y12 as permitted by paragraph 2.6 of the Code. The oversubscription criteria for Y12 if more candidates meet the academic requirements than the 50 places available give priority first to looked after and previously looked after

children and then on the basis of distance from home to the school.

12. Both the school and LA have pointed out that it is one of a number of single-sex schools in Hertfordshire which are not schools with a religious character and which do not have any element of selection. In St Albans where the school is located there is also a boys' school – Verulam – which is the subject of determination ADA2906. All these schools have in common an aspect of their oversubscription criteria which is regarded as important by the LA and, in this case, by the school also. I shall refer to this aspect of the arrangements as “proportionality”. The proportionality approach is relevant both to the objection to the clarity of the definition of “nearest school” in the arrangements and to the wider clarity of the arrangements as noted under other matters above.
13. Proportionality applies to criteria (or, in the school's words, “rules”) 5 and 6 within the school's arrangements. The school has a priority area which is divided into a number of areas referred to as “parishes”, “unparished areas” or “towns”. Once places have been allocated under the criteria 1 – 4, a certain number of places will remain. These will in turn be allocated to the parishes, unparished areas and towns in proportion to the number of applications from girls living in those areas. Within the number of places apportioned to each parish, unparished area or town, priority will be given first to those for whom the school is the nearest (as defined above) and then – among those for whom it is not the nearest – on the basis of random allocation. If there are more girls in one of the areas for whom the school is the nearest than the number of places apportioned to that area, then distance from home to school will be used to prioritise applications. The LA explained at the meeting that this approach has been used in Hertfordshire to balance the interests of those for whom the school was the nearest school they might be eligible to seek a place at, with those for whom the school was not the nearest but who lived reasonably close (that is, within its priority area) and wanted a single sex education.
14. Since the objection was submitted and following the meeting held on 7 September 2015, the school has submitted varied arrangements in accordance with the provisions of paragraph 3.6 of the Code and has published these varied arrangements on its website. I refer to these varied arrangements where appropriate to do so. These documents have also been circulated to the objector who offered some comments on them.

Consideration of Factors and Other Matters

15. I am considering the objection and the issues I identified together as they are in some cases related and flow from the precise wording used in the 2016 arrangements. The objection is to the definition of “nearest” school. The objector considered that this was ambiguous and hence not clear as required by paragraph 1.8 of the Code as it could be interpreted as either:

- a. the nearest Hertfordshire maintained school or academy which was not a faith school and not a partially selective school and was a school for girls; or
- b. the nearest Hertfordshire maintained school or academy which was not a faith school and not a partially selective school and was either a school for girls or a co-educational school.

16. The LA and the school both maintain that in the arrangements the nearest school can be either a school for girls or a co-educational school. The arrangements are not just about how far St Albans Girls School is from a girls' home but also about whether a child lives nearer to another school which she would be eligible to attend. Higher priority (within the allocation for the particular parish, unparished area or town) is given to those girls for whom St Albans is the nearest school (whether girls' only or mixed) and who do not therefore have an alternative nearer school which they might be able to attend. These arrangements have existed for many years. I do not consider that the arrangements could reasonably be interpreted to mean nearest girls' only school (which was also not a faith school and not partially selective and an academy or LA maintained school). I consider this is how the great majority of parents would interpret the arrangements. I do not uphold the objection.

17. As part of my consideration of the arrangements overall I include an additional point raised by the objector about the wording, "*under the relevant gender*". In an email submitted during the course of consideration of this case, the objector pointed out that the wording used in the admission arrangements for Year 7 (Y7) for 2016 is different from that used in the arrangements for Y7 for 2015. In particular, the 2016 arrangements use the phrase "*children under the relevant gender*" whereas the 2015 arrangements use the phrase "*children of the relevant gender*". The objector surmised that the school might have made the change in order to address a possible ambiguity in the earlier wording and, of course, the objection is based on a belief that the earlier wording had two possible interpretations. The school does not accept that it introduced the phrase "*under the relevant gender*" in order to remedy any perceived ambiguity. However, I also consider that "*under the relevant gender*" has no readily discernible meaning. The school has already varied its arrangements and replaced "*under the relevant gender*" with "*of the relevant gender*".

18. When I first reviewed the determined arrangements they made clear that the allocation of places under rule 5 was done on a proportional basis (as explained above). However, I noticed that neither the summary nor the full version of rule 6 referred to the allocation of places being on a proportional basis. Nor did Rule 6 state that it was limited to the priority area (although this might be inferred from the heading before rule 7 "*Children who live outside the priority area*"). The school said at the meeting that this was an error and the variations to

the arrangements made by the school make clear that proportionality applies to both rule 5 and rule 6.

19. The school's website stated that the school was a community school and that the LA was responsible for its arrangements. These statements were incorrect and have now been replaced with statements which reflect the school's status and the role of the academy trust as its admissions authority.
20. The oversubscription criteria provide an element of priority at Year 7 (Y7) for sisters of existing pupils. However, paragraph 1.11 of the Code explains that admission arrangements **must** state clearly "*what they mean by "sibling" (eg whether this includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address or siblings who are former pupils of the school).*" When I first reviewed the arrangements, I could not find any such definition of siblings. The school has now added a definition.
21. Paragraph 2.14 of the Code states that "*Each admission authority **must** maintain a ...waiting list....stating in their arrangements that each added child will require the list to be ranked again...*" I could not find this information in the school's arrangements. This information has now been added to the varied arrangements.
22. I turn now to the question of admission to Y12. The oversubscription criteria provide for priority to be given among children who meet the minimum academic standards to looked after and previously looked after children and then to children who live closest to the school. The school uses a Y12 application form which it is permitted to do as (unlike Year 7) there is no Common Application Form (CAF) provided by Hertfordshire County Council for this purpose. However, paragraph 2.4 of the Code makes clear that where such forms are used they can only request information which is necessary for the application of the school's oversubscription criteria. The form when I first reviewed it in July 2015 included questions about extra-curricular activities and a candidate's reason for applying. These matters are not relevant to the school's oversubscription criteria and could not form part of lawful admission arrangements. The form also asked for details of a referee. While it is acceptable to ask for details of a referee for the purpose of seeking predicted grades in relation to the academic criteria set, paragraph 1.9g of the Code makes clear that it is not permitted to take account of reports from previous schools. In addition, the form asked for a photograph to be attached. Paragraph 1.9o of the Code states that admission authorities must not request photographs of a child for any part of the admissions process, other than as proof of identity when sitting a selection test. There is no such selection test for admission to Y12 at the school. The form also asks for the signature of a parent/guardian and of the child. Paragraph 2.6 of the Code provides that a child can apply for a place at Y12 and does not state that such an application must be endorsed by a parent or carer. Finally, the information about the entrance procedure for Y12 external candidates referred to interviews. Interviews are prohibited by section 88A of the

Act (other than in relation the assessment of suitability for boarding).

Paragraph 1.9m of the Code explains that, in the case of sixth form applications, a “*meeting may be held to discuss options and academic entry requirements for particular courses, but this interview cannot form part of the decision making process on whether to offer a place*”.

23. At the meeting, the school explained that it had never been oversubscribed at Y12 and had not, therefore, had to apply the oversubscription criteria set out in its arrangements. It readily accepted that its arrangements did not comply with the Code. The school has varied its arrangements in order to remedy the identified breaches and published the new arrangements including the SIF on its website.

Conclusion

24. I have not upheld the objection for the reasons given. I identified a number of ways in which the arrangements were not in conformity with the requirements relating to admissions. The school responded swiftly by varying its arrangements and published the varied arrangements on its website. This determination does not require the school to make any further changes to its arrangements.

Determination

25. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for 2016 determined by the academy trust for St Albans Girls’ School, Hertfordshire.
26. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements as originally determined do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
27. 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 and the school has already done so.

Dated: 12 October 2015

Signed:

Schools Adjudicator: Shan Scott