



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3108

Objector: Medway Council

Admission Authority: The Sir Joseph Williamson School Governing Body on behalf of the Williamson Trust

Date of decision: 20 July 2016

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for admission to Year 7 in September 2017 determined by the governing body of Sir Joseph Williamson Mathematical School, Medway.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are matters as set out in this determination that 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 arrangements within two months of the date of this determination unless an alternative timescale is specified by the adjudicator. In this case the revisions must be made by 30 September 2016.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator (OSA) by the Student Services Manager on behalf of Medway Council (the objector), which is the local authority (LA) for the area. The objection concerns the admission arrangements (the arrangements) for September 2017 for Sir Joseph Williamson Mathematical School (the school) a selective academy school for boys aged 11 – 18 with a co-educational sixth form. The objection is that the inclusion of feeder primary schools

disadvantages boys who live on the Hoo peninsula, for whom this is the nearest grammar school, if they do not attend one of the feeder schools.

Jurisdiction

2. The terms of the funding agreement between the Williamson Trust which is a multi-academy trust (MAT) and is the academy trust (the trust) for the school and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body of the school on behalf of the trust, which is the admission authority for the school, on 29 February 2016 on that basis. The objector submitted the objection to these determined arrangements on 13 April 2016.

3. 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

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:

- a. the objector's objection form dated 13 April 2016 and supporting documents together with subsequent comments;
- b. comments from the school in response to the objection together with supporting documents;
- c. the funding agreement between the Secretary of State for Education and the trust for this school;
- d. a map of the area identifying relevant schools;
- e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- f. confirmation of when consultation on the arrangements last took place;
- g. the minutes of the meeting of the school governing body on 29 February 2015 at which the arrangements for September 2017 were determined; and
- h. a copy of the determined arrangements for 2017.

The Objection

6. The objection is to the school's introduction of an oversubscription criterion that gives priority to boys who have attended a primary school within the MAT. The objector considers that the selection of the feeder schools does not comply with paragraph 1.15 of the Code which says "*admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.*"

7. The objector is concerned that the introduction of this criterion could disadvantage boys for whom the school is the nearest grammar school but who do not attend one of the primary schools in the MAT. Three of the MAT's four primary schools are on the Hoo peninsula and the fourth is near the peninsula but there are five other primary schools on the peninsula and the objector considers this criterion could have a detrimental impact on boys attending one of these other schools. Even though the school is the nearest grammar school, for many who live on this peninsula it is still a considerable distance to the school. The objector goes on to say that as secondary age pupil numbers in the area increase in the coming years, boys on the Hoo peninsula may not gain a place on the basis of home to school distance with the result that if they do not attend one of the Trust's primary schools they will not be able to secure a place at their nearest grammar school..

8. The objector says that the detrimental impact of this criterion is exacerbated when combined with a decision by another local grammar school for boys that would be the next nearest grammar school. This school plans to introduce a similar criterion that gives priority to children attending other schools within its MAT and at the same time is proposing to become co-educational which will reduce the number of available grammar school places for boys.

Other Matters

9. When I reviewed the arrangements as a whole in the course of considering the objection, I noted that there were other matters that did not comply with the Code and raised these with the school. The school responded positively to the points as set out below.

10. The minutes of the school governing body meeting on 29 February 2016 when admission arrangements were determined did not refer to the proposed change or any responses to the consultation. The school responded that it accepted that the minutes of the meeting on 29 February 2016 lacked detail about this. It confirmed that it did undertake the statutory consultation process and that two responses were received, one from the LA and the other from a local school. It was confirmed that both responses were considered by the governors in reaching their decision, and the school recognised that the minutes do not adequately reflect this part of the discussion.

10. I noted the reference to education and health care (EHC) plans in the arrangements. This appeared to be unclear and does not say in clear terms that such children will be admitted. This amounts to a breach of the requirement in paragraph 14 of the Code that arrangements are "clear" and paragraph 1.6 that says "*All children whose statement of special educational needs (SEN) of Education, Health and Care (EHC) Plan that names the school **must** be admitted*". The school has agreed to rectify this matter.

11. I also noted that the arrangements do not include a statement to comply with paragraph 2.17 of the Code that says "*Admission authorities must make clear in their admission arrangements the process for requesting*

admission out of the normal age group.” The school has agreed to rectify this matter.

Background

12. The school became an academy in 2011. It was already a selective grammar school for boys aged 11-16 and with a co-educational sixth form. It has a published admission number (PAN) of 180 which increased from 168 in previous years. In 2014 there were 515 applicants and 168 places allocated with the furthest distance being 6.1Km. In 2015 there were 475 applicants with 169 places allocated and the furthest distance was 8.31Km. In 2016, there were 477 applications of whom 398 had taken the grammar school test and 225 of the applications were first preferences.

13. If the number of preferences for the school expressed by those who have reached the necessary standard in the school's selective examination exceeds the number of places available at the school in 2017, the arrangements set out the following oversubscription criteria (these have been summarised):

- i. Looked after children and previously looked after children.
- ii. Children who at the time of application have a brother or sister on the roll of the school.
- iii. Health reasons.
- iv. Children who at the time of application attend a primary school within The Williamson Trust.
- v. Children of staff at the school.
- vi. Nearness of children's homes.

Consideration of Factors

14. The objector is concerned that the trust has decided to give priority in the arrangements to children who have attended "a trust primary school". The objector considers that this is unfair for boys who do not attend one of these schools but who live on the Hoo peninsula and for whom this is the closest grammar school. For these boys attending one of the five schools that are not within the MAT and assuming that they have met the ability threshold, they may not be able to gain a place because other children who have attended a trust school will take priority for admission.

15. The school argues that the number of pupils admitted to the school in Year 7 from any of the primary schools within the trust is very small. In 2013, zero pupils from trust primary schools were admitted. In 2014, two were admitted and in 2015, the number was three. The school does not think that any appreciable disadvantage would be caused to other families as a result of giving priority to boys who have attended primary schools within its trust. It also maintains that identifying primary schools within the trust as feeder schools is legitimate, even though the number of admissions is low. It notes that six other secondary schools in the area that are within MATs have adopted the same oversubscription criterion and the school believes, as more schools adopt the criterion, pupils who attend primary schools within the

Williamson Trust would be less likely to gain places at other secondary schools.

16. The LA responded to these points by saying that it acknowledged that the numbers admitted from trust schools was small but wished to highlight the potential unfairness for boys living on the Hoo peninsula and who are not attending a school within this trust.

17. In relation to the school's arguments about the changes planned by six other local secondary schools, the LA has also made the following specific comments:

- One of these is a faith school that named other faith schools as feeder schools.
- One had amended its proposal to give priority to children in a catchment area before it gave priority to trust schools thus ensuring local children were not disadvantaged.
- Two are subject to objections to the OSA that are being considered within another determination.
- One is a non-selective school and has only one primary phase school in the trust and this is located relatively close to the secondary school. There are other non-selective secondary schools nearby and the naming of this primary school does not appear to cause disadvantage to potential applicants.
- The sixth school is the grammar school for girls that are the nearest grammar school for girls living on the Hoo peninsula. This school only has one primary school in its trust and this is relatively close to the secondary school. The school decided to give girls who live in the parishes on the Hoo peninsula priority over the girls who attend the school in the trust thus removing any disadvantage for girls living on the Hoo peninsula.

18. I shall now consider this objection from two perspectives. The first is whether or not they comply with paragraph 1.15 of the Code as set out in paragraph 6 above. The second is whether or not the arrangements meet the Code's requirement in paragraph 14 that they are "*fair*".

19. Paragraph 1.15 begins by saying that an "*admission authority may name a feeder school*". I do not consider that a criterion that says "*Children who at the time of application attend a primary school within The Williamson Trust.*" is the same as naming the schools. In my view, this does not comply with the Code as feeder schools are required to be individually named in the arrangements if this criterion is adopted.

20. The trust has been clear that it wishes to create a situation where children who begin their education in a school within the trust can continue in a trust secondary school if they wish. This is a transparent argument and one that in my view meets the requirement of the Code for transparency.

21. In addition to the requirement for transparency, the Code requires the selection of a feeder school to be reasonable. I would expect to see a greater relationship with a feeder school than with other local primary schools. I

asked the school to set out for me how it had this greater relationship. It responded that despite the low numbers that transfer, there is active co-operation and there are links with each primary school within the trust. The school says that it contributes to the teaching and learning in the trust primary schools by sending secondary staff to do outreach work; it hosts cohorts of pupils from trust primary schools for extracurricular or enrichment activities on its site and has participated in mentoring arrangements with trust primary schools by organising senior students from the school to mentor Year 5 and 6 pupils. These described links provide some evidence to justify that the feeder schools have been selected on reasonable grounds.

22. The Code requires the choice of feeder schools to be “*reasonable*” and in this case I find some evidence of working together and I have not found that there is contrary evidence that the choice of feeder schools is unreasonable and so I conclude that in this respect the arrangements comply with the requirement of the Code.

23. Paragraph 14 of the Code requires arrangements to be “*fair*”. The objector has set out how the priority given to children who attend trust schools could have an impact of boys who live on the Hoo peninsula for whom this is the nearest grammar school but who do not attend a trust school. The trust includes a non-selective secondary school that is located on the Hoo peninsula to which many of the children in the area will go and whose admission arrangements give priority to children living in the area. Medway is a local authority that has retained a selective system and pupils are able to undertake selection tests to determine if they have sufficient ability to apply for a place in one of the selective schools in the area. The closest grammar schools to the Hoo peninsula are this school for boys and two corresponding selective schools for girls.

24. I accept the school’s argument that the numbers involved are small, but I also accept the LA’s argument that as the secondary school population is forecast to rise in the area there will be a greater pressure on places in schools. This school is the closest selective school to the area and it is a boys’ school. Girls attending these same primary schools and who have passed the necessary admission tests have been given priority for places as described in paragraph 17 above. The boys and the girls could both access the non selective school that is part of the MAT and is located on the Hoo peninsula. However, given that there is selective education in the area, boys attending the primary schools that are not in the MAT on the Hoo peninsula may find that even if they have passed the necessary ability tests, they will not be able to gain a place at their nearest grammar school. The LA has suggested a possible way forward that allows the school to retain its priority for pupils attending trust schools once it has protected the interests of boys who live on the Hoo peninsula. On balance, I consider that the arrangements are unfair in this respect for this group of boys and the school must review how it can address this and I uphold this element of the objection.

Summary of Findings

25. The objection concerns the oversubscription criterion that gives priority to pupils attending trust primary schools. I have reviewed this against the

requirements of paragraph 1.15 of the Code and find that it is not sufficient to refer to trust schools but that these must be named in the arrangements. I considered whether the selection of the schools was “*transparent and reasonable*”. I found that the selection of the schools was transparent and reasonable. I then considered this criterion against the Code’s requirement in paragraph 14 that arrangements are “*fair*” and concluded that this criterion disadvantaged boys who live on the Hoo peninsula and who do not attend one of the trust schools. In this respect I have concluded that the arrangements are unfair. I therefore uphold the objection on these grounds and require the school to review its arrangements.

26. In reviewing the arrangements as a whole, using my power under section 88I of the Act, I have drawn attention to aspects of the arrangements that do not comply with the Code and these are set out above. The school has acknowledged these points and has undertaken to review its arrangements in order to address them.

27. Paragraph 3.1 of the Code says that “*admission authorities must, where necessary, revise their admission arrangements....within two months of the decision unless an alternative timescale is specified...*”. I consider that two months should be sufficient for the governing body to review its arrangements in the light of this determination. However, I recognise that much of this period will be during the summer when the school is not in session, I have accordingly extended the period to Friday 30 September 2016.

Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for admission to Year 7 in September 2017 determined by the governing body of Sir Joseph Williamson Mathematical School, Medway.

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

29. 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 arrangements within two months of the date of this determination unless an alternative timescale is specified by the adjudicator. In this case the revisions must be made by 30 September 2016.

Dated: 20 July 2016

Signed:

Schools Adjudicator: David Lennard Jones