



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3236; ADA3237; and ADA3238

Referrer: London Borough of Havering

Admission Authority: Drapers' Multi Academy Trust for: Drapers' Academy; Drapers' Maylands Primary School and Drapers' Brookside Junior School, all in Romford, Essex

Date of decision: 4 October 2016

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998 I have considered the admission arrangements for September 2017 determined by Drapers' Academy Trust for Drapers' Academy; Drapers' Maylands Primary School; and Drapers' Brookside Junior School, all in Romford, Essex, and find there are matters which do not conform with the requirements relating to admission arrangements as 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 within two months of the date of the determination unless a different timescale is specified by the adjudicator In this case I specify a deadline of 31 October 2016.

The referral

1. The admission arrangements for September 2017 (the arrangements) for Drapers' Academy, a secondary school; Drapers' Maylands Primary School; and Drapers' Brookside Junior School were brought to the attention of the Office of the Schools Adjudicator (OSA) by the London Borough of Havering on 10 May 2016 by an objection to the arrangements. The objection related to a number of matters including the consultation on the arrangements; a lack of clarity in the arrangements; and the lack of inclusion of information in the arrangements which the School Admissions Code (the Code) requires to be included.
2. The arrangements for the schools had not been determined and so the objection was not in the jurisdiction of the adjudicator and not considered further at that time. The trust provided the determined

arrangements and evidence of their determination on 23 June 2016 and so the matter became within the jurisdiction of the adjudicator. In this determination the organisations referred to are:

- i. Drapers' Multi Academy Trust (the trust) which is the admission authority for Drapers' Academy; Drapers' Maylands Primary School; and Drapers' Brookside Junior School (the schools);
- ii. Drapers' Academy (the secondary school) which is an academy secondary school for students aged 11 to 18 years;
- iii. Drapers' Maylands Primary School (the primary school) which is an academy primary school for pupils aged 5 to 11 years;
- iv. Drapers' Brookside Junior School (the junior school) which is an academy primary school for pupils aged 7 to 11 years; and
- v. the London Borough of Havering (the local authority) which is the local authority for the area in which the schools are situated.

Jurisdiction

3. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the schools within the trust are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the trust, which is the admission authority for the schools, on that basis on 31 May 2016. I have used my power under section 88I of the School Standards and Framework Act 1998 (the Act) to consider the arrangements as a whole, including those matters brought to my attention by the local authority, as it appeared to me that they may not conform with the requirements for admission arrangements.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code.
5. The documents I have considered in reaching my decision include:
 - a. the referral from the local authority dated 10 May 2016; supporting documents; and subsequent communications;
 - b. the trust's comments on the referral; supporting documents; and its responses to my questions;
 - c. information available on the trust's, the schools' and the local authority's websites;
 - d. a map of the area identifying relevant schools;
 - e. evidence relating to the most recent consultation on the

arrangements for the schools;

- f. copies of the draft minutes of the meeting on 31 May 2016 at which the trust determined the arrangements;
- g. a copy of draft arrangements under consideration pending this determination (the draft arrangements); and
- h. a copy of the determined arrangements.

I have also taken account of information received during a meeting I convened with representatives of the trust and the local authority on 11 July 2016 at the secondary school (the meeting).

Matters of concern

- 6. The matters of concern that may not conform with the Code which came to my attention were (with the relevant paragraph of the Code in brackets):
 - i. The trust had not determined its arrangements for 2017 by 28 February 2016 (1.46).
 - ii. The trust had not determined published admission numbers (PANs) for the schools (1.2).
 - iii. The consultation carried out before the arrangements were determined may not have met the requirements of the Code (1.44).
 - iv. The arrangements overall may be unclear (14).
 - v. The oversubscription criteria include priority for children with statements of special educational needs (SEN) or Education, Health and Care (EHC) plans; however, such children must be admitted when the statement or plan names the school irrespective of any oversubscription criteria and this may make the arrangements unclear (14 and 1.8).
 - vi. There are inadequate definitions of looked after children and previously looked after children (14 and 1.7).
 - vii. The arrangements do not define what is meant by siblings (14 and 1.11).
 - viii. The arrangements give priority to children who are siblings of those attending schools within the trust but do not name the schools (14 and 1.12).
 - ix. The trust gives priority to children who have attended feeder schools but these are not named (14 and 1.9b).
 - x. The arrangements for the primary school do not provide

information about:

- i. the entitlement of a child to a full time place in the September following their fourth birthday (2.16);
 - ii. part-time admission of children below compulsory school age (2.16); and
 - iii. deferred entry to school for children below compulsory school age (2.16);
- xi. The arrangements do not provide information about:
- i. the admission of children outside of their normal age group (2.17); and
 - ii. how the home address is defined (1.13).

Background

7. The secondary school opened as an academy on 1 September 2010. The school's trust became a multi-academy trust (MAT) in July 2014 when it sponsored Drapers' Brookside Junior School. Drapers' Maylands Primary School was opened as a free school within the trust in September 2015 with pupils in reception year (Year R) only. The primary school will build up year on year so it will have all year groups up to Year 6 from 2021. At the meeting the trust described its wish to provide education for Harold Hill families; Harold Hill being the name of the local area in which the schools are situated and from which most of the children attending the schools come.
8. There have been discussions between the local authority and the trust on the admission arrangements for the three schools for over a year. This culminated in the local authority making an objection to the arrangements to the OSA on 10 May 2016 as paragraph 3.2 of the Code says, "*Local authorities must refer an objection to the Schools Adjudicator if they are of the view or suspect that the admission arrangements that have been determined by other admission authorities are unlawful.*" The deadline for objections for arrangements for 2017 was 15 May 2016.
9. The trust had prepared a draft set of arrangements which they provided to the local authority for comment on 10 May 2016. The trust has told me that it had made no plans to determine these revised arrangements by 15 May 2016. The local authority complied with its statutory duty in making the objection. The trust has addressed many of the matters raised in this determination in its draft arrangements. It indicated at the meeting that it intended to agree new arrangements that conform with the Code as soon as possible; this is permitted by paragraph 3.6 of the Code. This intention is welcomed.
10. The oversubscription criteria determined by the trust on 31 May 2016 for all points of entry to the schools within the trust are:
 - i. "*Children with statements of Special Educational Needs or those*

who have an EHCP, where the school is named on the statement.

- ii. Looked After Children, or children who were Looked After (as defined by the 2014 Admissions Code, section 1.7).*
- iii. Children whose brother or sister already attend a school within the MAT at the time of the application.*
- iv. Pupils who already attend another school within the MAT.*
- v. Children who reside within the agreed priority admissions area, with priority being given to those living closest to the school. The priority admissions area is shown on the school website.*
- vi. Children who reside outside the agreed priority admissions area, with priority being given to those living closest to the school.”*

Consideration of case

11. Determination: When the objection was made the OSA requested evidence that the trust had determined its arrangements for 2017 but the trust had not determined them. Paragraph 1.46 of the Code says, *“All admission authorities **must** determine (i.e. formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Admission authorities **must** determine admission arrangements for entry in September ... by **28 February** in the determination year.”* The trust did not conform with the Code in this regard.
12. Consultation: The trust needed to consult because it wished to change the arrangements for 2017 from those which applied in 2016. The trust told me that it undertook a consultation between 2 October and 20 November 2015. This meets the requirement of paragraph 1.43 of the Code with regard to timing. Paragraph 1.44 lists the bodies with which admission authorities **must** consult. The trust provided me with a list of the organisations to which it sent an email alerting them to its consultation.
13. Paragraph 1.44a requires that the admission authority **must** consult parents of children between the ages of two and eighteen. There was no consultation with parents apart from putting the document on the schools’ websites; this is insufficient to meet the requirements of the Code as parents are unlikely to be looking for such information unless they were made aware that a consultation was happening. The trust has not complied with the Code with regard to consultation.
14. Clarity of arrangements: Paragraph 14 of the Code 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 the following paragraphs I have considered the arrangements in light of this obligation as well as the specific Code requirements mentioned in relation to particular aspects of the arrangements.
15. The arrangements are described by the trust as one of a suite of

policies agreed to cover all the schools in the trust. It is open to the trust to have arrangements in common for all its schools. However, the arrangements **must** be clear to parents, as required by paragraph 14 of the Code, and cover all the areas required by the Code. The schools in this trust have different age ranges and thus between them admit children to Year R, Year 4, Year 7 and Year 12. Whether or not the arrangements are in common, there are three schools and a child will be applying to one particular school and the arrangements for that school must be clear.

16. The arrangements are also not always clear as they do not contain the information relevant to all the schools and in places, such as when they describe the waiting list procedures, they specify one age group (Year 7) when in fact there need to be waiting lists for all years of entry. It will not be clear to parents which schools are covered by the arrangements; and what parts of the arrangements apply to them. There is information which is missing as described below.
17. At the date of completing this determination the admissions information on the websites for the schools has inconsistent versions of the arrangements, and the information is thus unclear. At least one version of the arrangements for admissions in 2017 is labelled as '*consultation*' and remains dated 27 May 2015. These are the determined arrangements and inaccurate labelling makes this unclear.
18. Published Admission Numbers: 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.'*" The trust agreed at the meeting that it had not set PANs for the relevant age groups for the schools. As PANs had not been set, it follows that they had not been published as required by paragraph 1.47 of the Code. The arrangements do not conform with the Code in these matters.
19. Children with a statement of SEN or EHC plan that names the school: The oversubscription criteria have the first priority as "*Children with statements of Special Educational Needs or those who have an EHCP, where the school is named on the statement.*" When the local authority raised this with the trust, the trust said that the Code does not prohibit this element being within the oversubscription criteria. Paragraph 1.6 of the Code says, "*All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school **must** be admitted.*" These children are not considered for admission at the same time as other children as there is a separate process. Paragraph 1.7 says that looked after children and previously looked after children **must** be given highest priority in any oversubscription criteria. A child whose statement of SEN or EHC plan names the school has a place at the school irrespective of any oversubscription criteria. This is not clear in the arrangements and so the arrangements do not conform with the Code.
20. Looked after children and previously looked after children: The

requirement in paragraph 1.7 of the Code is that *“the highest priority must be given,to looked after children and all previously looked after children. Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order). Further references to previously looked after children in this Code means such children who were adopted (or subject to child arrangements orders or special guardianship orders) immediately following having been looked after.”*

21. The arrangements have a section called, “*definitions*” in which looked after children are defined as, “*Children who are the legal responsibility of the Local Authority.*” This is not an accurate reflection of the law, not least as local authorities have a number of legal responsibilities for all the children resident in their area.
22. The trust’s arrangements, as noted above, say that priority two in the oversubscription criteria is “*Looked After Children, or children who were Looked After (as defined by the 2014 Admissions Code, section 1.7).*” The trust explained that it refers the reader to the original document rather than risk having an out of date definition. However, the summary used is misleading and inconsistent. In addition the Code is not a document that changes from day to day and so the trust can be confident in quoting from the Code rather than suggesting parents find the Code and read it. Moreover, admission arrangements have to be determined each year and the trust can be absolutely certain that by quoting from the Code in force for that year they will be using an up to date definition. The arrangements do not comply with the Code on this matter as they are not clear.
23. Definition of sibling: Criterion three of the oversubscription criteria for the schools is, “*Children whose brother or sister already attend a school within the MAT at the time of the application.*” Paragraph 1.11 of the Code says, “*Admission authorities must state clearly in their arrangements what they mean by ‘sibling’ (e.g. 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).*” There is no definition provided in the arrangements for brother or sister. The arrangements do not conform with the Code in this regard.
24. Priority for siblings of those attending a school in the MAT: The arrangements for all the schools give priority to children who have a sibling at that school or at another school in the MAT. Thus a child would gain priority for a place at, say, the junior school if he or she had a sibling at the primary or secondary school or at the junior school itself. Paragraph 1.12 of the Code deals with the matter of priority for children to attend one school by virtue of having a sibling at another school. It says: “*Some schools give priority to siblings of pupils attending another state funded school with which they have close links (for example, schools on the same site, or close links between two*

single sex schools). Where this is the case, this priority **must** be set out clearly in the arrangements.” The schools in the MAT are not named and the arrangements do not set out clearly the priority which is gained by a sibling’s attendance at any of the schools in the MAT. This means that the priority is not set out clearly in the arrangements and this makes the arrangements unclear and so not conforming with the Code.

25. The trust has indicated its ambition to expand the MAT to include other schools. I have jurisdiction for admissions for 2017. I note however that if the MAT does grow and encompass additional schools, there would need to be appropriate consultation before any other schools could be included as part of arrangements which gave priority for children on the basis of sibling links involving those additional schools. If the MAT expands it will want to consider whether in future years a priority for children whose siblings attending any of the schools in the MAT would meet the requirement of paragraph 1.8 of the Code that “*Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair.*”
26. Naming of feeder schools: Criterion four in the oversubscription criteria is “*Pupils who already attend another school within the MAT.*” For admissions in 2017, this provision can be relevant only to children who will be leaving the junior school and transferring to the secondary school. This is because there will be no children of the right age to transfer from the primary school to the secondary school or, for that matter, from the primary school to the junior school. Paragraph 1.9b of the Code provides that “*admission authorities **must not** take into account any previous schools attended, unless it is a named feeder school.*” The secondary school does give priority to children who have attended the junior school and this brings its arrangements within the purview of paragraph 1.9b. The junior school is a feeder school but it is not named and so the arrangements do not conform with the Code in this respect.
27. In future years, there will be children leaving the primary school at the end of Year 6. It may also be that some children will wish to leave the primary school at the end of Year 2 and join the junior school. If the trust wishes these children to have priority for places at the junior school or the secondary school, these schools will need to be named as feeder schools. The naming of additional schools as feeder schools will, of course, require the appropriate consultation on new arrangements.
28. As indicated above, the trust has said that it wishes to increase the number of schools within the MAT; it has said that these would be local schools. The local authority has expressed concerns that this may lead to circumstances that would be unfair to some local children as they would have a lower priority for their local secondary school and may not secure a place. This is not the current situation and I cannot hypothesise on possible future circumstances if the trust were to expand further. The trust will want to make sure that its future

arrangements can be judged as fair. The trust would, of course, have to consult if it proposed any changes to the admission arrangements for any of the schools in or joining the MAT.

29. Required information: Paragraph 2.16 of the Code says, “*The authority **must** make it clear in their arrangements that, where they have offered a child a place at a school:*

- i. a) *that child is entitled to a full-time place in the September following their fourth birthday;*
- b) *the child’s parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and*
- c) *where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.”*

30. The primary school admits children to Year R and so paragraph 2.16 applies to its admission arrangements. This information is not in the arrangements and so the arrangements do not comply with paragraph 2.16 of the Code.

31. Paragraph 2.17 of the Code says, “*Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1. Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”* The first sentence of paragraph 2.17 applies to all the schools; the arrangements do not include the information required and so the arrangements do not conform with the Code in this regard.

32. Definition of home address: Paragraph 1.13 of the Code says, “*Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the ‘home’ address will be determined and the point in the school from which all distances are measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.”* The arrangements include no information on how the home address is defined where parents have shared responsibility and so the arrangements do not comply with the Code in this regard.

Date for the revised arrangements

33. Paragraph 3.6 of the Code describes how determined arrangements cannot be revised unless “*such revision is necessary to give effect to ... admissions law [or] a determination of the Adjudicator.*” This is the case here. Paragraph 3.1 of the Code says that “*The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Adjudicator’s decision within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator. An Adjudicator’s determination is binding and enforceable.*”
34. I have considered carefully what to set in this case. The trust has made clear that it wishes to have arrangements which comply with the Code for the admissions for 2017 and has drafted revised arrangements. The deadline for applications for secondary schools is 31 October 2016. I am confident in this case that the trust can determine revised arrangements by 31 October 2016 and I am accordingly setting a deadline of 31 October 2016 so that applications will be decided on the basis of revised arrangements that comply with the Code.

Summary of Findings

35. The arrangements for the schools in the trust are unclear, incomplete or inaccurate in several matters as described above. The trust has stated its intention to address these matters as soon as possible so that the arrangements conform with the Code.

Determination

36. In accordance with section 88I(5) of the School Standards and Framework Act 1998 I have considered the admission arrangements for September 2017 determined by Drapers’ Academy Trust for Drapers’ Academy; Drapers’ Maylands Primary School; and Drapers’ Brookside Junior School, all in Romford, Essex, and find there are matters which do not conform with the requirements relating to admission arrangements as set out in this determination.
37. 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 of the date of the determination unless a different timescale is specified by the adjudicator. In this case I specify a deadline of 31 October 2016.

Dated: 4 October 2016

Signed:

Schools Adjudicator: Deborah Pritchard