



Office of
the Schools
Adjudicator

Determination

Case reference: REF3888

Referrer: A parent

Admission authority: Frays Academy Trust for Keep Hatch Primary School, Wokingham

Date of decision: 18 November 2021

Determination

I have considered the admission arrangements for September 2020 for Keep Hatch Primary School, Wokingham in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the clarity of the catchment area, the arrangements do not conform with the requirements. I have also found that there are other matters which 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 within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I specify that the arrangements must be revised by 15 January 2022.

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 Schools Adjudicator (OSA) by a parent (the referrer) about the admission arrangements (the arrangements) for Keep Hatch Primary School (the school) for September 2022. The date of the referral was 28 October 2021.
2. The referral relates to the clarity of the catchment area map included in the arrangements.

3. When the arrangements were brought to my attention the I considered that the arrangements did not, or might not, conform with the requirements concerning siblings, children of multiple births and children below compulsory school age.

4. The parties to the case are the referrer, the Frays Academy Trust (the trust) and Wokingham Council (the local authority).

Jurisdiction

5. The terms of the academy agreement between the multi-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 under section 88C of the Act by the trust, which is the admission authority for the school, on 28 January 2021 on that basis.

6. The referrer submitted an objection to these determined arrangements on 28 October 2021. The School Admissions Code (the Code) requires objections to admission arrangements for 2022 to be made to the adjudicator by 15 May 2021. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

7. The referrer has asked to have his identity kept from the other parties and this request has been agreed by the Chief Adjudicator.

Procedure

8. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

9. The documents I have considered in reaching my decision include:

- a) the referrer's form of objection dated 28 October 2021 and subsequent correspondence;
- b) copies of the minutes of the meeting of the trust at which the arrangements were determined;
- c) a copy of the determined arrangements; and
- d) comments from trust on the matters raised.

The local authority was invited to comment on the matters raised but did not do so.

The Referral

10. The referrer said:

“The published admission arrangements for entry to Reception in the 2022/23 academic year do not clearly identify the school’s designated area, nor sufficiently allow applicants to determine whether their address is inside or outside of this area.

This contravenes the School Admissions 2014 para 1.8 which requires oversubscription to be “clear”, and para 1.14 which requires that catchment areas are ‘clearly defined’.

Within the schools published admission arrangements, oversubscription criteria 4 and 5 provide priority to those within the school’s designated area. Parents are directed to the notes and definitions – page 4 – and the attached map.

The map included in the admissions arrangements is a map of the Local Authority’s designated areas, not specifically the area for Keep Hatch Primary School. The copyright is dated from 2013 and I believe the map itself dates from around that time. It does not show any new estates built in the area post-2013, of which there are numerous, nor any newer school built in the area; an example of this is the Montague Park estate and Floreat Montague Park School.”

11. I note at this point that the Code refers to a “geographical area, from which children may be afforded priority for admission to a particular school” as a catchment area whereas locally it is referred to as a designated area. The use of this different terminology does not affect the requirement to conform with the Code’s requirements as to catchment areas.

Other Matters

12. When I considered the arrangements as a whole it appeared to me that they may not be clear about the admission of children from multiple births, or siblings born in the same academic year; paragraph 14 of the Code requires that arrangements are clear. They also appeared not to meet the requirements of 2.17 of the Code concerning children of below compulsory school age.

Background

13. The school for children aged 4 to 11 is situated to the east of Wokingham. Formerly a community school it joined the trust on 1 January 2021 shortly before the trust determined the arrangements. The published admission number (PAN) is 60 and the oversubscription criteria can be summarised as follows:

1. Looked after and previously looked after children
2. Children with medical or social needs

3. Children with a family member with medical or social needs
4. Siblings of children attending the school who live in the catchment area
5. Other children who live in the catchment area
6. Siblings of other children attending the school
7. Other children.

Within each criterion, priority is given to children living closest to the school with random allocation being used as a final tie-breaker.

Consideration of the referral and the arrangements

14. In addition to the comments quoted above, the referrer said “The map is also no[t] of sufficient detail to be able to determine exactly where the boundary of the designated area runs. This means it is not possible to determine which roads and, more importantly, specific addresses on those roads are inside or outside of the designated area.”

15. The map of the catchment area included in a box on the last page of the arrangements does not include a scale, the box covers less than one half of an A4 page. In that space the map shows the location of 13 primary schools and eight catchment areas. About one third of the box contains text which states “This map gives a guide to the designated areas for Community and Voluntary Controlled schools in the Wokingham Borough that use them in their over subscription criteria.” I note that this school is an academy. This is followed by an invitation to contact the School Admissions Team for more information and “Voluntary Aided schools or Academies are shown in blue for information only”. The school is an academy and is shown in red, not blue.

16. I have compared the map included with the arrangements with a current map of the area. The map included in the arrangements is out of date and does not show all of the streets which exist today. The lines marking the catchment area boundaries are wider than the streets which they follow, and it is not clear from the map whether these streets fall in the catchment area of the school, or the neighbouring school.

17. In its comments on the referral, the trust told me that because the school joined the trust on 1 January 2021 it did not have time to consult on changing the arrangements used previously when the school was a community school and “it would not have been appropriate or lawful to change the map for the September 2022 admission arrangements without undertaking a proper consultation”. While I agree that it would not have been possible for the trust to change the catchment area without prior consultation, it is the clarity of the existing catchment area that is in question. Paragraph 1.14 of the Code requires that catchment areas must be clearly defined, and paragraph 3.6 of the Code allows admission authorities to revise admission arrangements if it “is necessary to give effect to a mandatory requirement of this Code”. A clear definition of catchment area is a mandatory requirement of the Code. It would, therefore, have been possible for the trust to include in the

arrangements a map of sufficient scale (and without the misleading text) at any time after the arrangements were determined. Alternatively, another clear definition perhaps listing the streets (and if necessary, houses within them) or the postcodes included in the catchment area would meet this requirement.

18. I find that the catchment area is not clearly defined and so the arrangements do not conform with paragraph 1.14 of the Code.

19. Under the heading “Multiple Births (twins, triplets etc) or children with birth dates in the same academic year” the arrangements say “Where the application of the oversubscription criteria results in splitting siblings from a multiple birth places will be offered even if this results in the school going over the Published Admissions Number (PAN). Where the application of oversubscription criteria results in splitting siblings with dates of birth in the same academic year, places will be offered even if this results in the school exceeding PAN. However, when places are allocated for Reception the school must not breach infant class size legislation of 30 children to 1 qualified teacher. In this instance, parents will be offered the option of splitting the children or accepting multiple places in a lower preference school.”

20. Paragraph 14 of the Code requires that admission arrangements are clear, and I considered this section of the arrangements was not clear because it appears contradictory. The PAN only applies to the “relevant age group” which is the normal point of admission, that is Reception in the case of this school. The paragraph begins by saying that the school will exceed PAN to accommodate children from multiple births. The reference to PAN means that that the reference must be to Reception. However, the section ends by saying that because of infant class size legislation, it will not do so. The following sentence about “splitting the children or accepting multiple places in a lower preference school” then compounds the lack of clarity. It is of course not for this admission authority to offer an option of places at a lower preference school. It is for the admission authority so say how it would choose between the children (the arrangements would lead to this being by random allocation) or if it would admit all children from a multiple birth.

21. The arrangements also appear to say that if two siblings were born in the same academic year other than in a multiple birth, they will not be split. Infant class size legislation applies to classes where the majority of the children are aged 5, 6 or 7, so not just to Reception. Paragraph 2.16 of the Code provides that if a child’s sibling from a multiple birth is admitted to an infant class, then the child may be admitted as an excepted pupil but makes no such allowance for other siblings born in the same academic year.

22. Paragraph 2.17 of the Code says that admission authorities “**must** make it clear in their arrangements that where they have offered a child a place at a school ... 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”. The part of the arrangements headed “Children below compulsory school age” says “Parents/carers can request that their child attends on a part-time basis until they reach compulsory school age

(see notes and definitions – page 4), or that the date that their child is admitted is deferred until later in the academic year when they reach compulsory school age.” It does not include the requirement that this cannot be beyond the beginning of the final term of the school year.

23. When I raised these matters with the trust, it again said that the arrangements were inherited from the local authority, and it considered that it would not be lawful for it to revise them. At the point the school became an academy it had little practical option other than to adopt the admission arrangements used by the local authority to a certain extent and I would not wish to criticise the trust for doing so. It was certainly too late for the trust to embark on a consultation to change the arrangements. However, that is not the entire story. There was no legal requirement to incorporate provisions derived from the local authority’s arrangements but not relevant to this school. Moreover, as I have noted above, paragraph 3.6 of the Code allows admission authorities to revise their arrangements to give effect to mandatory requirements of the Code. I find that the part of the arrangements concerning siblings from multiple births or born in the same academic year is unclear and so does not conform with paragraph 14 of the Code. I also find that the part of the arrangements concerning children below compulsory school age does not conform with paragraph 2.17 of the Code.

24. The trust told me that it was consulting on the admission arrangements for 2023 and that it would address these matters in that process. The trust was concerned that changing the 2022 arrangements at this time without consultation would be unlawful and could be prejudicial to parents who have already submitted their applications for school places for September 2022.

25. I have quoted part of paragraph 3.6 of the Code above. That paragraph also says that arrangements can be varied to give effect to a decision by the Schools Adjudicator. Paragraph 3.1 of the Code also says: “The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Schools 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 Schools Adjudicator. The Schools Adjudicator’s determination is binding and enforceable.”

26. Because I have found that the arrangements do not conform with the Code, the trust must revise them in the timescale which I set. Including a clear map or other definition of the catchment area in the arrangements will not change the catchment area or prejudice in any way applications which are already made, indeed it will help parents yet to apply to understand if they live in the catchment area or not. Clarifying how the trust would manage a situation where the last child to be offered a place was from a multiple birth or had a sibling in the same year group is necessary although the probability of a child being affected by these provisions is small. It is important that parents of children born between April and August understand that if they want their child to attend part-time, the law only allows this until the start of the summer term. Because, as the trust has pointed out, parents are already applying for places, the trust should revise its arrangements as soon as

possible and certainly before 15 January 2022 which is the deadline for parents to make their applications. I therefore require that the arrangements are revised by that date, which is only a few days less than the usual two month period.

Determination

27. I have considered the admission arrangements for September 2020 for Keep Hatch Primary School, Wokingham in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the clarity of the catchment area, the arrangements do not conform with the requirements. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

28. 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 an alternative timescale is specified by the adjudicator. In this case I specify that the arrangements must be revised by 15 January 2022.

Dated: 18 November 2021

Adjudicator Name: Phil Whiffing

Signed: