



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3431

Objector: A member of the public

Admission Authority: The academy trust for The Rochester Grammar School, Medway

Date of decision: 3 September 2018

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the academy trust for The Rochester Grammar School in Medway for admissions in September 2019.

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, I determine that the arrangements must be revised 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 a member of the public (the objector), about the admission arrangements (the arrangements) for September 2019 for The Rochester Grammar School (the school), an academy school within the Thinking Schools Academy Trust (the trust). The school provides for girls aged 11 to 18. The objection is that the school's arrangements do not comply with the Code in respect of the information provided on the school's website and that the oversubscription criteria that give priority to girls with siblings in any trust secondary school and to girls who are attending a trust primary school are unfair.

2. The local authority for the area in which the school is located is Medway Council. The parties in this objection are the local authority, the objector and the trust.

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 school 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 school, on that basis. The objector submitted the objection to these determined arrangements on 10 May 2018.
4. 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.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 10 May 2018, supporting documents and subsequent submissions;
 - b. the legal advisor for the trust's response to the objection;
 - c. the local authority's response to the objection;
 - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2018;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. confirmation of the meeting of the local governing body when the arrangements were determined on behalf of the trust; and
 - g. a copy of the determined arrangements.

The Objection

7. There are three parts to this objection:
 - a. That the school's website does not contain the required information about admissions.
 - b. That the criterion that gives priority to girls who are attending a trust feeder primary school may comply with the requirements of paragraph 1.15 of the Code but is unfair in contravention of paragraphs 14 and 1.8 of the Code

- c. That the oversubscription criterion that gives priority to girls who, at the time of the admission, “*have a sibling who attends The Rochester Grammar School or any other Thinking Schools Academy Trust secondary academy in Medway, that is, The Victory Academy and Holcombe Grammar School*” does not comply with paragraph 1.12 of the Code which deals with priority given on the basis of links between two or more schools and is unfair in contravention of paragraphs 14 and 1.8 of the Code in respect of fairness.

Background

8. The Rochester Grammar School is a selective school for girls that is an academy within the Thinking Schools Academy Trust. The trust is a multi-academy trust comprising four secondary schools, three of which are in Medway and one of which is in Portsmouth, and six primary phase schools, four in Medway and two in Portsmouth. The Portsmouth schools are not relevant to the objection or to this determination because attending these schools does not afford any priority for admission to The Rochester Grammar School.
9. The other secondary schools in the trust in Medway are The Victory Academy and Holcombe Grammar School. Holcombe Grammar School is a selective school for boys and The Victory Academy is a non-selective co-educational school. Both are around 2.7 miles from the school by road. By straight line distance they are approximately 1.5 miles and two miles from the school. There are five other selective and eleven other non-selective secondary schools in Medway.
10. Of the four primary schools in the trust in Medway, one, New Horizons Children’s Academy, is in Chatham sharing a site with Holcombe Grammar School. The other three are in Strood. The schools are between just over two and just over three miles from the school by road and between one and two miles from the school by straight line distance. There are around thirty primary schools within two miles of the school by straight line distance, several of which are nearer to the school than the primary school members of the trust.
11. The school is a popular school and has a published admission number (PAN) of 175. It is usually oversubscribed. As a grammar school it is permitted to select applicants on the basis of their ability. The Code makes clear that grammar schools can either admit all pupils on the basis of rank score in their selection tests or by setting a threshold for eligibility and then using other oversubscription criteria such as distance or catchment area to prioritise admissions. Grammar schools are also unique in that they may keep places empty if not enough applicants reach the required standard. Under the arrangements in place at the school up until and including 2018, the girls who secured places were largely those who gained the highest ranked scores in the eligibility test. This is because the oversubscription criteria were (in summary) as follows:
 - a. Looked after and previously looked after children who reached the

eligibility threshold;

- b. Music scholars who met the school's test criteria on musical aptitude (2 places available)
- c. Other girls ranked by score in the test.

12. The arrangements thus took no account of where girls lived; the primary schools they had attended or where their siblings went to school. For admission to the school in 2018 there were a total of 591 on time preferences (included children assessed as not eligible for a place on the basis of performance in the test), of which 260 were first preference. The total number of 'eligible' preferences (children who had reached the necessary level in the selection tests) was 509, of which 241 were first preference. Places in 2018 were allocated to one looked after girl, two girls showing an aptitude for music and 202 girls were allocated places on the basis of their rank in the test results. The school admitted a total of 205 girls which was 30 more than its PAN of 175. In 2017 it also admitted 205 girls against its PAN of 175.

13. For 2019 the arrangements have been changed following consultation. The trust has determined arrangements which set an eligibility threshold of academic ability and then apply oversubscription criteria which can be summarised as follows:

- a) Looked after girls and previously looked after girls.
- b) Girls who, at the time of the admission, have a sibling who attends the school or any other trust secondary academy in Medway, (The Victory Academy and Holcombe Grammar School).
- c) Girls who attend any trust primary school in Medway (New Horizons Children's Academy, The Gordon Children's Academy, All Faiths Children's Academy, Cedars Children's Academy).
- d) Girls of staff employed at the school.
- e) Girls with medical reasons which necessitate their attendance at the school.
- f) Other girls in rank order based on the scores achieved in the tests.

If the school reaches and exceeds its PAN within one of these oversubscription criteria other than f), the rank order of test results will be used to allocate places.

Consideration of Case

14. The first part of the objection is that the school does not display the correct information about admissions on its website. Paragraph 1.47 of the Code says an admission authority "**must** publish a copy of the determined arrangements on their website displaying them for the whole offer year...".

When I viewed the website I could not, at first, find either the 2018 arrangements or the 2019 arrangements, and instead found some that related to 2016. When I looked further, I found the required documents under a separate tab. The school is displaying the documents as required by the Code but should look at its website to ensure that it removes admission arrangements that are no longer current and that it is easy to find the current admission arrangements. The determined arrangements are, however, published as required and so I do not uphold this part of the objection.

15. The second part of the objection concerns the giving of priority to girls who have attended one of the primary schools in Medway which are members of the same trust. The objector argues that it is unfair that girls should have a higher chance of securing a place at the school because of the decision about primary education made by their parents several years before. He is also concerned that some girls may gain a place having “*just scraped a pass*” because they attend a particular school whereas other girls will be admitted to the school (which the objector describes as a “*super selective*”) having scored much more highly in the selection test. The Code provides that account may only be taken of a previously attended school if it is a named feeder school (paragraph 1.9b) and requires that feeder schools must be selected on reasonable and transparent grounds (paragraph 1.15). The use of feeder schools as an oversubscription criterion must also meet the core requirements of the Code set out in paragraphs 1.4 that the “*allocation of places are fair, clear and objective*” and 1.8 that “*oversubscription criteria **must be** reasonable, clear, objective, procedurally fair, and comply with all relevant legislation..*”.
16. In this case, the feeder schools have been named. They have been selected on transparent grounds. These are that they are part of the same multi-academy trust and that the schools in the multi-academy trust share the same ethos. The rationale for their inclusion as feeder schools were explained to me by the trust’s legal advisor as follows:

“All schools operated by the Trust, whether primary and secondary, share the same ethos and, most importantly, teaching and learning tools. All students are trained to use the same “Thinking toolkit” that includes: Thinking Maps (Hyerle); Thinking Hats (de Bono); Thinkers Keys (Ryan) and Habits of Mind (Costa and Kallick). This approach is Quality Assured by regular in-school reviews undertaken by the Cognitive Educational Development Unit at Exeter University.

No other Medway Schools are using this cognitive approach to education or the use of distinct cognitive structures to support learning. This “Thinking toolkit” is used in all Trust lessons in both Primary and Secondary Schools and provides the students with the framework for their lessons and their learning. Students trained in the “Thinking toolkit” naturally want to continue to be taught in the same way as they move from Primary to Secondary School. They have been trained to think and learn within a particular set of cognitive structures. Moving to a school that does not use these structures would mean a student no longer was able to use the learning tools that they had mastered at their previous school and so could damage their education.”

17. I consider that these are reasonable grounds for selecting the feeder schools. The links and shared ethos and approach of the schools which are members of the trust will result in educational benefits to girls who are able to spend their school life in schools run by the trust. I have accordingly gone on to consider whether the inclusion of feeder schools in the arrangements meets the requirements of paragraphs 14 and 1.8 of the Code.
18. I am not persuaded by the arguments made by the objector about the “super-selective” nature of the school. As I outlined above, some grammar schools do admit all or most children on the basis of test score admitting only those with the highest scores. Others take a different approach. The Code is clear that it is for admission authorities to decide what arrangements will be best in their local circumstances provided that the arrangements meet the requirements as to admission. There is no requirement that grammar schools should admit only the very brightest. In this case the four named feeder schools have a combined PAN of 320. Roughly half of those children will be girls and thus eligible to be considered for a place at the school. Not all of these girls will reach the required threshold for a place at the school. There will continue to be places available for other girls who have attended other primary schools. The overall result of this aspect of the changes is that some girls who live within two miles of the school and attend particular primary schools and who reached the required standard in the school’s selection test will have an enhanced chance of a place there. The girls whose chances of a place are correspondingly reduced are those who do not attend the feeder schools. These girls might live anywhere and will be those whose score in the selection test is not high enough to secure them a place on the basis of rank order performance in relation to the now smaller number of places allocated on the basis only of rank order in the test.
19. The objector argues that each year more secondary schools in the area appear to be introducing criteria that offer places to those who have attended feeder schools. The objector argues that this will lead to a growing pressure on primary schools to join multi-academy trusts so that their children can have some priority for a secondary school. It could also mean that children who do not reach the eligibility score for a selective place but who attend a feeder school for a selective school will have no priority for a place in a local school. I note these concerns. I have looked at the area secondary admissions data for 2018 and can see that there were undersubscribed schools in the area and all the selective schools have admitted up to or over their PANs. I have not been provided with any evidence that a child will not be able to secure a place in a school which is within a reasonable travelling distance of his or her home for 2019 which is the year for which I have jurisdiction. I add that the addition of further feeder schools for the school (or for any other school) would be subject to consultation and the scope for objections to be made to the adjudicator. My decision in this case is only about this school with its existing feeder schools for 2019. It does not affect the ability for concerns about future changes to admission arrangements to be tested by the adjudicator if there was evidence in future years of unfairness being caused to one or more children.
20. I observe that, in this case, the feeder schools are within the trust. The trust therefore has the means to ensure that even though they are named as feeder schools for this selective girls school, the primary schools must also make provision for effective transition to secondary school for all their pupils. They

will have boys who are eligible for a grammar school place and for girls and boys who do not reach the required score in the selection tests and must find a place at a non-selective school. I note that a selective school for boys and a non-selective secondary school are also members of the same trust in Medway.

21. The third part of the objection concerns the oversubscription criterion that gives priority to girls who have a sibling in any of the trust's secondary schools. The objector asserts that this criterion does not comply with paragraph 1.12 of the Code which states that "*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 objector also argues that the result of this criterion is that girls who might otherwise have been able to gain a place at the school are disadvantaged and treated unfairly.
22. This criterion contains two elements, the first is the priority given to girls who have a sibling at The Rochester Grammar School, the second is the priority given to girls who have a sibling at one of the other secondary schools in the trust. The way that this is worded results in an odd sequencing of the criteria as it combines these two points and may also cover some of the girls who are covered by the feeder schools category that I have already covered. I shall deal with these two sibling priority points separately.
23. In my view there is a great difference between giving priority for a place to a child who has a sibling at the school at which a place is sought and a child who has a sibling at another school – albeit one with which the school concerned has close links. The objector has not expressed concern about the giving of priority to girls who have sisters already at the school. For the avoidance of doubt, I do not consider that such priority is unfair or in any other way in contravention of the Code. Where a girl has a sibling attending the school itself there could be a benefit for her attending the same school as her sibling for logistical and other family reasons. Many schools give priority to children on this basis and this is specifically addressed in paragraph 1.11 of the Code.
24. The local authority admissions booklet gives the anticipated roll of this school as 1270 so there seems to be a strong probability that there will be a potential sibling link between one or more girls seeking a place who have a sibling in this secondary school and who have not attended a primary school that is named as a feeder school. This is a departure from the existing arrangements and will have the effect of enabling the sister of a girl already attending the school to gain a place while only having to achieve the eligible score in the test rather than to compete with the rank score allocations. It also means that if the family lives some distance from the school a further place will be allocated at this distance and this could mean that a girl living closer to the school would not gain a place. The Code specifically permits priority to be given to siblings in this way and although there will be some higher achieving girls who may not gain a place at the school as a result, I am satisfied that the criterion is clear and the potential for such sibling links assisting families logistically provides a justification for the criterion.

25. I turn now to the question of priority given to girls who have a sibling at another trust secondary school in Medway, that is Holcombe Grammar School for Boys or The Victory Academy but who do not attend a feeder primary school (who will have priority under the separate criterion).
26. The trust's legal advisor makes the case that the schools within the trust are linked for curriculum purposes and this provides the reason for the schools to be linked in respect of paragraph 1.12 of the Code quoted above. The Code does not specify what "close links" means but gives the examples of schools on the same site or linked single sex schools. The Code does not make specific provision for priority to be given in circumstances such as those that arise here where schools are members of the same trust.
27. In my view it is for the admission authority to decide whether or not there are close links between two or more schools and be able to provide a reason for this decision. However, it is for me to judge whether or not the admission arrangements which take account of those close links meet the requirements of the Code and, in particular, whether the arrangements are fair, clear and objective as required by paragraph 14 of the Code and whether the oversubscription criteria are reasonable, clear, objective and procedurally fair as required by paragraph 1.8.
28. I have not been provided with a reason other than that given above for why such a priority should be given for this criterion. The local authority gives the expected roll for The Victory Academy as 786 pupils and for Holcombe Grammar School as 869. This gives a total of 1646 children whose sisters could have priority for a place at the school. Of course, some of these children will have no younger siblings and some will already be siblings of other children at the schools. Other younger sisters of those attending one of the schools will not reach the necessary standard in the school's test. However, it remains the case that a significant number of places could be allocated on the basis of this priority. I looked at the location of these three secondary schools. The distance from The Rochester Grammar School to The Victory Academy is about two miles and Holcombe Grammar is in between at a distance of about one and a half miles from The Rochester Grammar School. While they are not far from each other they could not be described as co-located. I can see no logistical benefit for a family if a child attends one of these schools and a sibling another.
29. The trust's arguments for this priority were expressed in terms of curriculum and pedagogical continuity. However, there is no curriculum continuity argument since gaining priority under this criterion is dependent only on the secondary school attended by a sibling. The girl benefitting may or may not herself have attended one of the feeder primaries which use the same curriculum and pedagogical approach. In any case, there is provision elsewhere in the arrangements giving priority to girls who have attended trust feeder primaries. A possible argument is that the girl would be studying a similar curriculum to her sibling in another trust school. Against this, if such an eligible girl gained a place in The Rochester Grammar School, another girl would not gain a place as a result. An example would be a girl with an identical test score but who does not have a sibling in either of these schools. A similar example would be a girl who has the same test score but is an only child with no siblings. A further example would be a girl who scored higher in

the tests and under previous arrangements would have gained a place but could now be displaced by a lower scoring girl. As discussed above, the trust is permitted by the Code to change its arrangements but changes have to be reasonable and must comply with the requirements for fairness. In this case I am of the view that there are insufficient reasons to justify the criterion giving priority to girls with a sibling in another trust secondary school which in turn justify the displacement of one or more girls who might otherwise have obtained a place. I have given some examples of girls who might be considered to be unfairly treated by the use of the criterion. I therefore uphold this part of the objection.

30. I note that in the past two years the school has admitted over its PAN by 30 pupils in each year. It is permitted to do this by virtue of paragraph 1.4 of the Code. If this is to happen again in 2019 it is possible that the oversubscription criteria will not be used if all eligible girls applying could be admitted. In this case, no girl would actually be disadvantaged. This does not however remove the responsibility of the trust to ensure that the arrangements for this school comply with the Code. Admission authorities are permitted by the Code to change their admission arrangements and as a result of the other changes that the trust has made to these arrangements, different children may be admitted to the school. In this case, there will be a change in the pattern of admissions but where these changes comply with the Code, there are reasons given for the change which stand scrutiny and provide a justification for the changes made. I have already made clear that any further changes of the sort which the objector has said he is concerned about would need to be consulted on and the subsequent admission arrangements could be referred to the adjudicator.

Summary of Case

31. There were three parts to this objection. I have not upheld the part that dealt with displaying the admissions arrangements on the school website because I was able to find the required information. I did note that the school could usefully remove some redundant information.
32. I have upheld the part of the objection that asserts that the criteria giving priority for girls with siblings in a different trust secondary school does not comply with the Code. I have not upheld the part of the objection that is concerned with girls who have attended a trust primary school.
33. The Code requires the school to revise its arrangements in the light of this determination within a period of two months of the publication of this determination.

Determination

34. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the academy trust for The Rochester Grammar School in Medway for admissions in September 2019.

35. 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, I determine that the arrangements must be revised within two months.

Dated: 3 September 2018

Signed:

Schools Adjudicator: David Lennard Jones