Office of the Schools Adjudicator

Determination

Case reference:	**ADA3594**
Objector:	**A member of the public**
Admission authority:	**Kendrick School Academy Trust**
Date of decision:	**26 September 2019**

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 September 2020 determined by the academy trust for Kendrick School, Reading.

I have also considered the arrangements in accordance with section 88I(5) and find 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.

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 Kendrick School (the school), a selective academy school for girls between the ages of 11 and 18, for September 2020. The objection is to the public consultation which was carried out prior to the determination of these arrangements and to the provisions within them concerning girls who are eligible for pupil premium funding. The objector says that the arrangements unfairly disadvantage applicants from poorer backgrounds.

2. The local authority (LA) for the area in which the school is located is Reading Borough Council. The LA is a party to this objection. The other parties are the objector and the academy trust (the Trust) for the school.

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 academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the Learning and Teaching Committee of the governing board on behalf of the Trust, which is the admission authority for the school, on that basis. The objector submitted his objections to these determined arrangements on 13 May 2019. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are 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. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;

b. a copy of the determined arrangements,

c. the objector's email and form of objection dated 13 May 2019 and supporting documents together with subsequent correspondence;

d. the response of the admission authority to the objection and subsequent correspondence;

e. the local authority's comments on the objection and subsequent correspondence and its composite prospectus for admissions to secondary schools;

f. maps of the area identifying relevant schools and the school's catchment area;

g. confirmation of when consultation on the arrangements last took place and details of the nature of the consultation and responses to it;

h. published information setting out the arrangements made for selection testing by the Slough Consortium of Grammar Schools.

The Objection

6. The objector says that the school failed to carry out a public consultation which conformed to the requirements set out in paragraphs 1.42 to 1.45 of the Code prior to the determination of these arrangements. Set out in full, these paragraphs say:

"*1.42 When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year. Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities **must** consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period.*

*1.43 For admission arrangements determined in 2015 for entry in September 2016, consultation **must** be for a minimum of 8 weeks and must be completed by 1 March 2015. For all subsequent years, consultation **must** last for a minimum of 6 weeks and **must** take place between 1 October and 31 January in the determination year.*

*1.44 Admission authorities **must** consult with: a) parents of children between the ages of two and eighteen; b) other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions; c) all other admission authorities within the relevant area (except that primary schools need not consult secondary schools); d) whichever of the governing body and the local authority who are not the admission authority; e) any adjoining neighbouring local authorities where the admission authority is the local authority; and f) in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.*

*1.45 For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought. Admission authorities **must** also send upon request a copy of the proposed admission arrangements to any of the persons or bodies listed above inviting comment. Failure to consult effectively may be grounds for subsequent complaints and appeals."*

7. The objector's concern is that the school failed to take into consideration observations which were made during its consultation about the proposed admission arrangements. Although I have jurisdiction to consider the aspect of the objection relating to the consultation, I have no power to require the consultation to be repeated. My determination is binding on the admission authority and should I find that the arrangements themselves do not conform with the requirements relating to admissions the admission authority would be legally bound to change those arrangements. However, it would be for the admission authority to decide how to revise the arrangements so that they did conform with the relevant requirements and to do so within two months or such other deadline as I may specify. I cannot require the admission authority to adopt any particular set of arrangements.

8. Secondly, the objector is of the opinion that the arrangements breach paragraph 1.8 of the Code because they disadvantage unfairly children from poorer backgrounds. Paragraph 1.8 says:

*"1.8 Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child."*

Other Matters

9. Having considered the arrangements as a whole it appeared to me that the following matters may also fail to conform with the requirements concerning admission arrangements for Year 7:

(i) the length of time between the deadline for registration for the admission test and the date of testing, and the statement that no late applications will be accepted. Paragraph 14 of the Code requires that *" 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.";*

(ii) the statement that children whose Education, Health and Care plan names the school will be admitted *"as long as they have met the lower qualifying score."* Paragraph 1.6 of the Code states that *"All children whose…Education, Health and Care plan names the school **must** be admitted.", and*

(iii) the statement concerning applicants who are not in the normal year group. Paragraph 2.17 of the Code states that *"Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group."*

10. In relation to the admission arrangements for Year 12:

(i) the statement that the school will *"normally*" admit 44 new students. Paragraph 1.2 of the Code states that *"all admission authorities **must** set an admission number for each 'relevant age group' ";*

(ii) the statement that children whose Education, Health and Care Plan names the school will be admitted "as long as they have met the predicted score of 54". Paragraph 1.6 of the Code is quoted above, and

(iii) the conditions placed on the acceptance of applications. The relevant requirements are set out in paragraph 2.19 of the Code.

11. I have therefore decided to exercise my power under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

Background

12. The LA's current composite prospectus for parents lists ten secondary schools. Of these, two are selective schools - Kendrick School and Reading School, which cater for girls and boys respectively. Both use the same tests as, and have procedures which are in common with, the group of selective schools in nearby Slough, known as the Slough Consortium.

13. Both the objector and the school have referred in correspondence to a previous objection to the school's admission arrangements which was made in 2015 concerning the arrangements for admissions in September 2016, and to the consequent determination made by the adjudicator (ADA2952). In that determination, the adjudicator rejected an assertion that the school's arrangements at that time were in breach of paragraph 1.8 of the Code because they unfairly disadvantaged girls from less affluent families. The objector in that case had complained that the admission of girls from a wide geographical area, whose score were prioritised in rank order, meant that girls living in more deprived areas near to the school were unfairly disadvantaged. The adjudicator noted that the school had introduced a new oversubscription criterion for 2016 which gave priority to girls in receipt of the pupil premium, and found that the Code was not breached by the arrangements.

14. The objector has provided a very full and helpful chronological background to his complaint. In it he summarised the government's Selective School Expansion Fund (SSEF) programme, quoting from a number of sources which made clear that the programme's intention was to enable more children from disadvantaged backgrounds to attend selective schools. He referred to the priority afforded to girls eligible for the pupil premium in the school's admission arrangements from 2016 onwards, stating that this had had little or no effect in practice. He outlined the response of the school to the SSEF initiative and referred to an initial consultation carried out by it in the summer of 2018 which sought views on possible expansion under the scheme, and to his own response to this consultation which included the creation of a petition calling on the school to create dedicated places for girls from less privileged backgrounds. He has also provided the school's publication covering the outcomes of this consultation. This does not mention the objector's petition, which he says had been signed by 135 individuals.

15. The objector's chronology continued by outlining the school's proposed admission arrangements for September 2020, and the consultation carried out concerning them by the school prior to their determination. He referred to his own submission to the consultation, which he has provided to me. This referred to the summer consultation and the signed petition, and included a statistical analysis of how many disadvantaged girls would be likely to be admitted to the school under the proposed arrangements, depending on the minimum qualifying score set in a given year. It is to this consultation process that the objection has been made.

16. The arrangements were determined by the Learning and Teaching Committee of the school's governing board, on behalf of the Trust, on 24 January 2019. The process set out in them for allocating the 128 available places is as follows:

(i) An inner priority area (Priority Area 1) and an outer priority area (Priority Area 2) are defined (in the form of lists of the relevant postcodes)

(ii) Children are ranked according to their performance in the selection tests

(iii) A qualifying score is determined

(iv) For looked after and previously looked after children and for children eligible for the Pupil Premium or Service Premium, a score five points below the qualifying score is determined and such qualified children are admitted. Pupil Premium or Service Premium children need to live within Priority Areas 1 and 2 to qualify for this criterion; there is no geographical restriction as to where looked after and previously looked after children are to live

(v) Places up to and including the 96th place are allocated in rank order to children living within either of the priority areas (the number of places actually allocated a place under this criterion will of course depend on the number of places allocated to those admitted under the criterion listed at (iv) above)

(vi) The 32 remaining places are allocated in rank order of score in the following order of priority:

a. Children living in Priority Area 1

b. Children living in Priority Area 2

c. Other children

Consideration of Case

Consultation

17. When the school undertook a public consultation on December 2018 about its proposed admission arrangements for September 2020, it included changes which it says were in line with advice from the Department for Education (DfE) as to what would be needed to meet the terms of the SSEF bid. These changes were:

(i) The creation of an additional 32 places;

(ii) The lowering the qualifying score for pupil premium children, and

(iii) The introduction of an inner catchment area (Priority area 1) which has areas of high deprivation.

18. The objector has told me that he is dissatisfied with the extent to which the school has considered the response which he and others made to this consultation on the proposed arrangements. He has provided me with the email which he sent to the chairman of the governors of the school during the consultation period, which made reference to the petition which had been submitted during the school's preliminary consultation in the summer of 2018 and which attached his own statistical analysis of the likely outcomes of the proposed arrangements. He is unhappy that this petition was, he says, disregarded as part of the formal consultation because it had not been signed within the consultation period, and that neither it nor his statistical analysis were referred to when the school's website announced the determination of the arrangements. He says that the school ratified

the proposed arrangements *"just two days after 'consultation' closed , clearly demonstrating they were just going through the motions",* and refers to the fact that the governors did not meet him personally until *"5 March 2019 long after it was possible to make any changes to the 2020 admission arrangements"*.

19. None of these points has persuaded me that the consultation was flawed because the product of consultation was ignored. The petition referred to by the objector was clearly raised not in relation to the proposed arrangements but when the school sought views about its expansion proposals at an earlier date. The school were entitled not to recognise it formally as a consultation response, although they were aware of its existence and of its contents as a result of the submission made by the objector, as they were of the statistical analysis. The objector has told me that the school confirmed to him that his submission had been passed to the school's Learning and Teaching Committee, which the school has told me has delegated authority in this matter. The minutes of the meeting of this committee at which the arrangements were determined say:

> *"The Governors discussed the consultation feedback received in detail….. In summary, the Governors noted and considered the consultation responses in detail and ratified the policies on behalf of the Full Governing Body as per the scheme of delegation."*

20. I am not sure why the school did not appear to include the petition in its analysis of the summer consultation, but that is not the consultation with which I am concerned. There is no reason why the objector's submission should have been referred to on the school's website, and no requirement for the governors to have met the objector at all, let alone within the consultation period.

21. The objector has also complained that when the school's website announced the determination of the arrangements, it stated that the newly included Priority Area 1 covers an area of higher social deprivation. He says that this had not been made clear previously and that "*The reasoning behind this inner catchment area was withheld from the public until after consultation was (sic) to prevent what is clearly a false claim from being challenged."* He has told me that *" the two most affluent parts of Reading "* have been included in the inner catchment area and that some more deprived areas that might have been included have not been. Again, while knowledge of the intention behind the creation of the inner catchment area would have been helpful context for consultees, the fact that this was not made explicit does not detract from the laying out of the proposed arrangements themselves in the consultation, and the ability of consultees to comment on what they saw there. Again, I do not consider that this causes the consultation to be outside what the Code requires.

22. The school responded to the objector's concerns about consultation by providing me with a table showing when, and how, consultees were approached but did not otherwise comment on the specific points which he made and which I have dealt with above. While making these specific complaints about the consultation, the objector cited all the provisions concerning consultation within the Code in making his objection, as set out above. I have therefore considered whether each of these provisions has been met. On the basis of the

documentation which has been provided to me I am satisfied that the consultation took place in the required timeframe, and for the required length of time to meet the requirements of paragraph 1.43. The school has also told me that the consultation papers were available on its website for the duration of the consultation, as required by paragraph 1.45.

23. What was less clear from the school's initial submission was whether the manner in which each of the required consultees was approached had been an adequate means of satisfying the requirements of paragraph 1.44 of the Code and I therefore asked the school to provide me with the relevant supporting evidence. When the school replied it very helpfully set out at my request the means through which it had satisfied the requirement of paragraph 1.44 and in particular of paragraph 1.44a) that it consult the parents of children between the ages of two and eighteen. I have seen copies of the emails and social media posts which formed part of the consultation, and of the letter sent to local schools asking them to bring the consultation to the attention of parents. I am satisfied that the requirements of paragraph 1.44 were met during the school's consultation, as were those of the other relevant paragraphs of the Code, as I have said. I do not uphold the objector's complaint concerning this consultation.

Whether the arrangements disadvantage unfairly girls from poorer backgrounds

24. I turn now to the second aspect of the objection, that the arrangements disadvantage unfairly girls from less prosperous families. The school's response has been to state that:

> "*In accordance with the School Admissions Code section 1.39A, Kendrick School gives higher priority to pupil premium students, service premium students and children in care in the oversubscription criteria."*

25. It will be helpful if I consider this statement at the outset. Paragraph 1.20 of the Code states in relation to grammar schools that:

> *"Where admission arrangements are not based solely on highest scores in a selection test, the admission authority* ***must*** *give priority in its oversubscription criteria to all looked after children and previously been looked after children who meet the pre-set standards of the admission test."*

26. So, since the school's arrangements use additional factors in conjunction with ranked scores to decide on the allocation of places, the priority given to looked after and previously looked after children by the school is in fact required by the Code. However, the school, as it points out, gives the next highest priority to girls eligible for the pupil or service premium if they live in the inner or outer catchment areas. As I have explained above, the school has given similar priority to children eligible for pupil premium or service premium funding since 2016. As part of his objection, the objector stated that in spite of this being the case, the proportion of girls in the school who are in receipt of pupil premium funding, as shown in the DfE 2018 autumn census, is 2.1 percent compared to 31.8 percent for non-selective schools in Reading. Both the school and the local authority have seen these figures, and have not challenged them. It is the objector's contention that they can be understood

because girls from less affluent homes cannot afford tutoring, which he considers to be *"rife"* for others. The view which he has expressed in making this objection, and to the school during consultation, is that it is necessary to create dedicated places for children eligible for the pupil premium (the subject of the petition which he organised, referred to above), because such children will otherwise always still have to achieve whatever qualifying score is set (the subject of his "statistical analysis", also referred to above).

27. The school initially said that it was unsure as to the nature of the objection which was being made concerning children from poorer backgrounds. I explained to the school that I understood this to be a reference to paragraph 1.8 of the Code, and this was confirmed by the objector. He continued:

"My complaint is not, as the school appear to be trying to insinuate, that they do not give <u>any</u> *priority to applicants in receipt of Pupil Premium funding but that they have knowingly implemented a policy which in practical terms makes very little difference, will still leave that social demographic severely underrepresented in the school and is totally at odds with government policy…"*

28. The policy to which the objector refers, citing statements made to this effect, is that the expansion of selective schools under the SSEF is predicated on there being an increased access for disadvantaged children.

29. The school's admission arrangements for 2020 go further than those in place previously in enabling the admission of children from less affluent homes, by setting the qualifying score for both looked after and previously looked after children and for those eligible for pupil or service premium funding five points lower than for all others.

30. The objector has provided me with a copy of the statistical analysis which he submitted to the school as part of its consultation on its proposed admission arrangements for September 2020. This is a statistical model which the objector says enables a prediction to be made of the number of disadvantaged local girls likely to be admitted to the school, depending on the qualifying score which is set by the school in line with its admission arrangements, and the level of the qualifying score set for disadvantaged applicants. The view which he expresses, based on this model, is that very few of the 32 additional places which have been created for 2020 are likely to go to disadvantaged girls, under the proposed arrangements.

31. The school has not responded directly to these assertions, but has simply stated what the arrangements contain. The objector has advocated the setting of a fixed qualifying score by the school, and it has also responded to this point by saying that it is not required to determine a fixed qualifying score and that this was what the adjudicator found in ADA2952.

32. It seems to me to be the case that if disadvantaged children as a group perform less well than their peers on the kinds of test used by the school for selection purposes (as is generally accepted), that the level of the qualifying score, and the size of any reduction in it for this group will both have an impact on the number of them selected. Generally speaking,

it will be the case that the lower the qualifying score, and the greater the reduction for disadvantaged children, the higher the proportion of those from this group there will be in the admission cohort. Whether or not the objector's model produces accurate results at the level of detail at which it operates, the illustrations contained within it conform to such a pattern, and I am content to accept this as sufficient for my consideration here.

33. The objector contends that what he says will most likely be a continued under-representation of disadvantaged girls in the school's intake compared with the proportion of such girls living in Reading under the arrangements for 2020 renders them non-compliant with paragraph 1.8 of the Code. I am required under section 88H of the Act to consider such an objection, not in the context of what may be policy objectives or statements of intent, but in terms of what the Code and other legislation provides concerning school admission arrangements.

34. Paragraph 1.18 of the Code, and the associated footnote, set out the provisions which permit designated grammar schools which have converted to academy status to continue to select their intake on the basis of high academic ability. The school is therefore permitted to do so and to determine what the level of academic ability to gain admission is to be. There is no provision requiring an admission authority for a selective school to state what this qualifying score will be as part of its determined admission arrangements, and no requirement for the same qualifying score to be used in different years. The arrangements contain specific provision for enabling the admission of girls from disadvantaged backgrounds. Even though, as I have said and as the objector has pointed out, the practical impact of these provisions depends on the level of the qualifying score yet to be set by the school for admissions in 2020, this very fact means that it remains possible, at least in theory, for the arrangements as determined to have an effect which significantly benefits disadvantaged girls compared to other groups, if a sufficiently low qualifying score is set. Whether or not that proves to be the case remains to be seen. The objector has asked me to consider as part of my deliberations the content of a written answer to a Parliamentary question in which a government spokesman encouraged the admission authorities for selective schools to consider the impact of the "pass mark" which they set. This conforms with the view which I have just expressed.

35. Although I have needed to understand how the application of the admission arrangements may operate in order to consider the objection to them which has been made, the application of the arrangements in practice falls outside my jurisdiction, and I concern myself only with whether the arrangements themselves comply with what is required in the Code and elsewhere. For the reasons I have given, my view is that the arrangements do not fail to conform with what paragraph 1.8 of the Code requires. I do not uphold this aspect of the objection.

Other Matters

Registration deadline for testing

36. The school has expressed the opinion to me that the relevant provisions within its arrangements were *"deemed acceptable"* by the adjudicator in an earlier determination. I have reviewed that determination (ADA2952, issued on 11 September 2015). It does not refer to this matter. In spite of what the school may believe, that does not mean that this aspect of the arrangements has been judged compliant. An adjudicator's power to consider those parts of admission arrangements which are not the subject of an objection is discretionary in nature, and is not always exercised.

37. The school has told me that the 14 June deadline for registration is *"required by the test provider"* and that this is *"coordinated across all the schools in the consortium".* I take this statement to mean that the same date for registration is used by all the schools in the Slough consortium, and I have obtained a copy of the consortium's document which sets out its arrangements to confirm that this is the case. The arrangements are of course those of the Trust, as the admission authority for the school, and not those of the consortium. It is therefore the school which is responsible for their compliance and not the test provider or the consortium.

38. Testing took place on 14 September 2019, which means that the interval between registration and testing was of the order of 12 weeks. The arrangements clearly state, in terms, that *"late entries will NOT be accepted".* However, they also say elsewhere that late candidates will be accepted in *"exceptional circumstances"*, as the school has pointed out to me. No definition of "exceptional circumstances" is given in the arrangements and so I can only imagine that the school must expect parents to assign to it its everyday meaning, which would for instance not allow a parent finding out just after the deadline that they were to move into the area before the deadline for applications for school places to be included, since such an occurrence would clearly not be exceptional. The school has told me that a parent *"insisting*" on a late test for whom there were no exceptional circumstances would be asked to contact the school again after National Offer Day, the following March, but has not said what would then happen. In effect, the school has told me that there are no arrangements for the late testing of candidates since such a parent would not be considered until after the allocation of places has, by definition, taken place.

39. The school referred me to its website and I found there a presentation given in April 2019 to prospective parents which explained that the 14 June 2019 deadline for registration was necessary so that the test provider can know whether to include the candidate's score in the standardisation carried out for the school in question. This means that there will potentially be a different standardised score for a given child's performance on the selection test for the different schools for which they have registered. The Slough consortium document confirms that this is the case.

40. I can see that it is perfectly reasonable for the school to ask the test provider to standardise the results of girls seeking a place at the school separately from the other schools using the same test, and that there may be additional administrative requirements involved in this happening across the group of school of which Kendrick School is a part for these purposes. However, it seems to me that any such requirements cannot justify parents having to register 12 weeks before the test date in order for their daughter to be included in the testing, especially since there are no arrangements in place to cater for those missing the registration date for unexceptional reasons such as learning of a move into the area. The length of time involved exacerbates the number of children of such parents who will be affected. I consider that this makes the arrangements unreasonable, and in breach of paragraph 14 of the Code. While I recognise that there will be necessarily be a period between the registration deadline and the test date, my view is that 12 weeks is unreasonable and that this period could be reduced. I note in this context that the registration deadline for grammar schools in Kent for 2020 was 3 July 2019 and the test dates were 12 and 14 September 2019.

The admission of children whose Education, Health and Care Plan names the school

41. The school believes that the statement in its arrangements is in line with paragraph 1.6 of the Code. It has told me that the wording of this paragraph of the Code is as follows:

"All children whose …Education, Health and Care plan names the school must be offered a place (with exception (sic) of designated grammar schools – see paragraph 2.8 of this Code)".

On the contrary, the actual wording of the Code is as follows:

*"All children whose …Education, Health and Care (EHC) plan names the school **must** be admitted. If the school is not oversubscribed, all applicants **must** be offered a place (with the exception of designated grammar schools - see paragraph 2.8 of this Code)."*

The reference to designated grammar schools here is clearly in respect of all applicants, not those with an EHC plan, and to the particular circumstances of undersubscription. A reading of paragraph 2.8 of the Code makes this more than plain:

*"With the exception of designated grammar schools, all maintained schools…..that have enough places available **must** offer a place to every child who has applied for one…"*

The reference in paragraph 1.6 to children whose EHC plan names the school is therefore unequivocal and it applies to all schools, including selective schools. It is also the case that the requirement is that such children be admitted, not merely offered a place, which is not quite the same thing. The local authority has referred me to the relevant section of the Children and Families Act 2014, which gives reasons for a local authority not naming a school. It is during the process of making the EHC plan and deciding what school would be best placed to meet the needs of the child that the question of whether that child should attend a grammar school falls to be decided. Paragraph 1.6 of the Code refers however to

the situation after the school has been named (my emphasis). The arrangements fail to comply with paragraph 1.6 of the Code.

The admission of children outside the normal age group

42. The school has again made the same reference to the previous determination as described above, and my view of that issue is the same.

43. The arrangements say that:

"Only in highly exceptional circumstances will applications be accepted from any girl whose birth date is before 1 September 2008 or after 31 December 2009."

They also say that applications will not *"normally"* be accepted from girls whose date of birth does not fall within these dates, and give some expectations concerning the level at which the child would be expected to be working. The Code at paragraph however 2.17 says that:

*"Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group."*

The school's arrangements give no indication of what process parents would need to follow if they wished their daughter to be considered for admission to the school outside her normal age group. The fault with the arrangements is that they do not make clear the process for requesting such admissions; it is not a question of whether or not the circumstances need to be exceptional which I agree is a matter for the school.

The admission arrangements for Year 12

44. The school has said that it is *"looking to rephrase"* the statement that it will *"normally"* admit 44 students to Year 12, and has said that the admission number for this year is 140. The admission number relates to admissions to the school, not to the size of the year group, and because Year 12 is a relevant age group to which admissions are normally made, an admission number must be set. Students already on the roll of the school who transfer from Year 11 to Year 12 do not need to be admitted. A school must say how many places are available to those wishing to enter from outside (the admission number) but is able to admit above this number, as set out in paragraph 1.4 of the Code, if it wishes. As determined, the school's arrangements do not state what the admission number is for Year 12 and do not conform with the requirement in paragraph 1.2 of the Code.

45. The arrangements contain an equivalent provision to that for Year 7 which also makes the admission of students whose EHC plan names the school to Year 12 conditional in nature. Paragraph 1.6 of the Code applies to all points of admission to the school, and I have already set out my view as to its effect concerning admissions to a selective school. The arrangements for Year 12 also fail to comply with what paragraph 1.6 requires.

46. At the school's request, I clarified the basis of my concern that a list of conditions applied to the admission of students to Year 12 which are set out in an appendix to the

arrangements may not conform with what is required by paragraph 2.19 of the Code. This states that:

*"Admission authorities **must** treat applications for children coming from overseas in accordance with European Law or Home Office rules for non-European Economic Area nationals."*

The list of conditions in the school's arrangements include:

"The parents/carers of the applicant must be entitled to reside and to work in the UK"

Non-statutory guidance from the DfE is mentioned in paragraph 2.19 of the Code, and I have explained to the school that its admission conditions do not appear to have taken this guidance into account. This states that:

"*When an admission authority for a school deals with an application for a child. Whether or not they are a UK national, it must comply with the school admissions code (sic) and the Equality Act 2010. It cannot refuse a school place simply because of doubts about the child's immigration status.*"

The school has not responded to me further on this matter. The arrangements do not comply with paragraph 2.19 of the Code.

Summary of Findings

47. I have explained why I have not upheld either element of the objection. I have also set out my reasons for coming to the view that the following matters fail to comply with what is required by the Code:

(i) the length of time between the last date for registration for testing and the date of on which testing takes place;

(ii) the placing of conditions on the admission of children whose EHC plan names the school;

(iii) the absence of an explanation of the process for asking the school to consider the admission of a girl outside her normal age group;

(iv) the failure to state the admission number for Year 12, and

(v) the conditions placed on the acceptance of overseas applicants.

Determination

48. 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 September 2020 determined by the academy trust for Kendrick School, Reading.

49. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

50. 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.

Dated: 26 September 2019

Signed:

Schools Adjudicator: Dr Bryan Slater