



**DETERMINATION**

**Case reference:** ADA3201

**Objector:** Northamptonshire County Council

**Admission Authority:** The Collaborative Academies Trust for Kingsthorpe College, Northampton

**Date of decision:** 20 July 2016

**Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2017 determined by The Collaborative Academies Trust for Kingsthorpe College, Northampton.**

**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 Northamptonshire County Council (the objector), about the admission arrangements for September 2017 (the arrangements) for Kingsthorpe College (the school), an academy school for children aged 11 to 18. The objection was to the oversubscription criterion concerning feeder schools.
2. The objector is the local authority (LA) for the area in which the school is located.

**Jurisdiction**

3. 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 by the Collaborative Academies Trust (the trust), which is the admission authority for the school, on that basis. The objector submitted the

objection to these determined arrangements on 13 May 2016. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
  - a. the objector's form of objection dated 13 May 2016;
  - b. the admission authority's response to the objection, supporting documents and its response to my subsequent enquiries;
  - c. maps of the area identifying relevant schools;
  - d. confirmation of when consultation on the arrangements last took place;
  - e. copies of the minutes of the meeting at which the governing body of the school ratified the arrangements set by the trust; and
  - f. a copy of the determined arrangements.
6. I have also taken account of information received during a meeting I convened on 15 July 2016 at the school. The meeting was attended by representatives of the school and the LA.

### **The Objection**

7. The objector questioned whether the sixth oversubscription criterion which gives priority for admission to children attending primary schools which are a member of the trust complied with paragraph 1.15 of the Code.

### **Other Matters**

8. When I considered the arrangements as a whole there were several ways in which it appeared to me that they did not, or may not meet requirements.
  - a. The arrangements were not published on the school's website as required by paragraph 1.47 of the Code;
  - b. the determined arrangements provided to me by the school referred to definitions of looked after and previously looked after children, but did not contain them. Paragraph 1.8 of the Code requires oversubscription criteria to be clear;
  - c. there was no reference in the arrangements to a waiting list as required by paragraph 2.14 of the Code;

- d. paragraph 2.17 of the Code requires admission authorities to make clear in their arrangements the process for requesting admission out of the normal age group. I could not find this in the arrangements provided to me; and
- e. the arrangements for admission of children with an aptitude for visual and performing arts appeared not to comply with paragraphs 14, 2.4. 1.31 and 1.32 of the Code.

## **Background**

9. The school is situated on the northern side of the town of Northampton; it became an academy in 2012. The school has a published admission number (PAN) of 240 and is oversubscribed. The school is the venue for the Pauline Quirke Academy of Performing Arts in the area and wishes to build on this relationship by offering places to children on the basis of their aptitude for the performing and visual arts. This is reflected in the new oversubscription criteria for September 2017 summarised below.

1. Looked after and previously looked after children.
2. Children of staff.
3. Up to 24 students with aptitude for visual or performing arts.
4. Students living in three postcode areas.
5. Siblings.
6. Students who currently attend a member academy of the Collaborative Academies Trust.
7. Other students.

10. Proximity to the school is used to prioritise applicants within each criterion and random allocation is used as the final tie-breaker.

## **Consideration of Case**

### Feeder schools

11. The full text of the sixth oversubscription criterion is “*Students who currently attend a member academy of the Collaborative Academies Trust and who will continue to be on roll until admission into Year 7:(Spring Lane Primary, Lumbertubs Primary) and any other Primary School who joins the Trust before September 2017.*” Paragraph 1.9b of the Code says that admission authorities “**must not** ... take into account any previous schools attended, unless it is a named feeder school” and 1.15 of the Code says “Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.”

12. There are nine schools in the trust. Of these, five are primary schools in Somerset and one is a primary school in Essex. At the meeting I was assured that the trust had no intention of giving priority for places at the school to children from Somerset or Essex, but the wording of the criterion does do that and it is not a reasonable thing to do.

13. The two primary school members of the trust in Northampton are named, as is necessary to comply with the requirement of the Code. The school has pointed out that it is usually oversubscribed in a higher criterion than the feeder school criterion and the objector, which is the LA, did not suggest that there was anything which was not transparent or reasonable about the choice of the two named primary schools. My own consideration of the location of the two named primary schools together with the location and admission arrangements of other secondary schools in the town does not indicate any reason why these two schools should not be named as feeder schools in a criterion lower than that catering for children living closer to the school.

14. The school said it had included the phrase "*any other primary school who joins the trust before September 2016*" because discussions were underway with other primary schools about joining the trust and it did not want to disadvantage children attending those schools. This is a sound motive; however the Code only allows named schools to be feeder schools, general statements of this type are not consistent with it. I therefore uphold the objection.

#### Publication

15. When I looked at the school's website on 19 June 2016 I found a page headed "*Consultation on Admission Arrangements 2017*". This page could only be found after hovering over the tab for "*Admissions in September 2016*" which is itself under the "*Parents and Carers*" tab. This page said that the 2017 arrangements have been determined and has three links. The first had a heading "*View admission criteria (March 2016)*", this led to a download of the visual and performing arts application form. The second link was "*Supplementary Information Form (March 2016)*", clicking on this link produced an error message saying the page does not exist. The third was a link to the local authority's website. Paragraph 1.47 of the Code requires admission authorities to publish arrangements on their websites once they are determined; it appeared this had not been done.

16. In response to my enquiries on this matter the school suggested the website was being updated at the time I looked, and it was confident that the links were working. I looked again at the website on 6 July 2016. The 2017 arrangements could now be found, however they were still under a label of consultation, which could only be seen after hovering over the link to the 2016 arrangements, so it may not be clear to parents and others that these are the determined arrangements for 2017.

#### Definitions of terms in the arrangements

17. The determined arrangements provided to me by the school referred to

definitions of looked after and previously looked after children as being on page “xx”, there was no page “xx” in the arrangements. Paragraph 1.8 of the Code requires oversubscription criteria to be clear.

18. The school told me that they relied on definitions of these terms found in the LA’s composite prospectus and that this was common practice for schools in Northamptonshire. The LA is not however required to publish a composite prospectus for admission in 2017 until 12 September 2016. If Parents are required to cross reference a different document which may not yet be published in order to know whether or not their child would meet an oversubscription criterion, then that criterion cannot be clear. Whatever the practice may be in other schools, the responsibility for the clarity of the oversubscription criteria sits with the admission authority, in this case that is the trust.

19. I am pleased to note that I have been provided by the school with a revised version of the arrangements containing a clear and accurate definition of these terms.

#### Waiting Lists

20. Paragraph 2.14 of the Code requires admission authorities to make a statement in their arrangements about waiting lists. There was no reference in the arrangements provided to me by the school to a waiting list.

21. In its response to me on this matter, the school said it relied on details about waiting lists to be provided in the LA’s composite prospectus. The comments I made in the above section apply here too, the requirement in the Code is for the admission authority to make a statement in its arrangements on waiting lists.

22. Again I am pleased to note that the revised version of the arrangements provided to me by the school now includes an appropriate statement.

#### Admission outside of the normal of age group

23. Paragraph 2.17 of the Code requires admission authorities to make clear in their arrangements the process for requesting admission out of the normal age group. I could not find this in the arrangements provided to me.

24. The school again told me that such requests were raised through the LA. My comments in the previous two sections apply to this matter as well and I am satisfied that the revised version of the arrangements contains a suitable description of the process for requesting admission outside of the normal age group.

#### Admission of children with an aptitude for visual and performing arts

25. 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. Parents should be able to look at a set of arrangements and*

*understand easily how places for that school will be allocated.”*

26. The school introduced selection by aptitude for the visual and performing arts for the first time into the arrangements for 2017. The 24 places offered meets with the requirement in paragraph 1.24 of the Code that the number of places allocated on this basis does not exceed 10 per cent of the places available. The criterion reads *“Up to 24 students with a demonstrated particular aptitude in the visual or performing arts (art, dance, drama or music). Students will be selected through workshops. If you wish your child to be considered for a place under the criterion aptitude for visual or performing arts, please complete an ‘Aptitude Admissions’ form and return it to Kingsthorpe College by the final Friday before the October half term. Aptitude Admissions forms are available on the College’s website. Please contact the school directly for details of assessment workshops.”*

27. I regard the ‘Aptitude Admissions’ form as a supplementary information form (SIF). On the form the date for its return is given as Friday 11 November, not the final Friday in October as stated in the criterion itself, this is not clear. The school itself noted this discrepancy while assembling the documents which I requested and undertook to address it. The SIF says that the workshops will take place on Saturday 19 November.

28. I have considered whether these dates comply with the requirement of paragraph 1.32c of the Code which says *“Admission authorities **must**: ... c) take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on 31 October so as to allow parents time to make an informed choice of school - while making clear that this does not equate to a guarantee of a selective place.”* In discussion at the meeting, it transpired that neither the school nor the LA had considered this requirement of the Code. The school has undertaken to consider what steps it can take to bring the assessment of aptitude forward so that parents are able to complete the common application form (CAF) knowing whether or not their child has the possibility of being offered a place on the basis of aptitude.

29. Paragraph 2.4 of the Code says that admission authorities *“must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.”* The SIF says *“Please complete the application form in as much detail as possible stating how your son or daughter will benefit from outstanding teaching in the Visual or Performing Arts or how they have already demonstrated their capacity to succeed in this area.”* The largest section of the SIF is for stating the reasons for applying under this criterion and allows for continuation on a separate sheet. I asked the school how this complied with paragraph 2.4 of the Code and whether the statement made by parents is used to filter applications and only some children are invited to the workshops.

30. In its response to my enquiries the school said its intention was to invite all children who apply under this criterion to the workshops. It said the question on the SIF *“gives parents an opportunity to share with us a skill set which may not be apparent on the day of the workshops e.g. all the additional*

*clubs and activities the child participates in out of school which demonstrates a passion and skill set in the curriculum area.”*

31. Having considered the school’s response I find that the SIF does not comply with paragraph 2.4 of the Code. The parent’s statement will reflect the parent’s ability to write about how their child would benefit from outstanding teaching in the arts (which all children would), rather than the child’s aptitude which is assessed in the workshops in drama, dance, music and art. Participation in out of school clubs and activities, which is an example of factors the school says it is looking for, may well reflect in part parents’ ability to take their children to, and pay for their children taking part in, such activities, as well as the child’s enthusiasm for them. These matters are not the same as the child’s aptitude for the subjects. This statement has no bearing on decisions about the child’ aptitude, and therefore cannot not be requested on the SIF.

32. The arrangements say under the heading “*Tiebreaker*” that “*Should there be an oversubscription in any category places will be awarded to those students who live nearest the school.*” Together with the wording of the criterion, this suggested to me that the workshops identified children who had an aptitude for one of the arts and if more than 24 were identified then those who lived closest to the school would be offered the places. This would comply with the Code providing that the assessment met the requirements of paragraph 1.31 which says “*Tests for all forms of selection must be clear, objective, and give an accurate reflection of the child’s ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test, providing that the test is a true test of aptitude or ability.*”

33. The arrangements described four workshops one in each of drama, dance, music and art. As the SIF did not ask which of the arts the child had an aptitude for I asked the school whether all children take part in all four workshops. I enquired how the workshops met the requirement of paragraph 1.31 of the Code and I asked the school to confirm my understanding of how the criterion and tie breaker are applied.

34. The school said that all children participated in all workshops as “*many will have a skill in more than one of the areas*” and it was its intention to offer the 24 places to the children who show the greatest aptitude regardless of distance they lived from the school. The criterion does not say this; it refers to children with a demonstrated aptitude, not those with the greatest aptitude. This fails to meet the requirement in paragraph 14 for arrangements to be clear.

35. In order to rank children by aptitude the assessment has to be more sophisticated than one designed to identify whether or not a child has an aptitude. I would be prepared to accept that an experienced teacher would be able to identify through workshop activities whether or not a child had aptitude in one of the arts, what was not clear to me from the arrangements was how a ranked order of aptitude could be achieved in a way that complied with paragraph 1.31.

36. There was extensive discussion around this point in the meeting on 15 July 2016 during which the school acknowledged some of the difficulties identified. I have reflected on that discussion and on the additional information about the workshops which the school has offered to add to the arrangements.

37. I am satisfied that the workshops are assessing aptitude, although in music the statement "*Prospective musicians will be asked to perform a prepared piece of music on their chosen instrument*" suggests some consideration of prior ability linked to previous tuition in that subject. I accept the possibility that the workshops could enable applicants to be ranked by aptitude within one of the disciplines, but it is not clear how a ranked order will be produced in an objective way. For example in dance the school says it will consider applicants against seven criteria including balance, flexibility, strength and stamina, the arrangements do not say how these criteria will be weighted.

38. It may also be possible objectively to compare children's aptitude between the disciplines. However to do so requires a level of sophistication not set out in the arrangements.

39. I also consider that asking all children to take part in all workshops does not comply with paragraph 1.31. At the meeting the school accepted that to require a child to participate in an activity in which they had no aptitude would be unfair and could affect the child's ability to demonstrate aptitude in other disciplines. This would be even more unfair if the child had a disability. The school said it would change the SIF to ask which workshops the child wanted to take part in. There are potential difficulties here too, would a child who demonstrated a moderate degree of aptitude across all four disciplines be regarded as having greater aptitude than one who demonstrated a very high level of aptitude in just one? If the school intends to allocate the places to applicants with the greatest aptitude and not as described in the arrangements, then it would need to be made clear in the arrangements how questions such as this will be addressed.

### **Summary of Findings**

40. Paragraph 1.9b of the Code only allows schools to take into account previous schools attended if they are named feeder schools. While two feeder schools are named in the oversubscription criteria, priority for admission is also given to children attending other un-named schools in the trust. This does not comply with the Code and I uphold the objection on this basis rather than that it does not comply with paragraph 1.15 as suggested in the objection.

41. When I considered the arrangements as a whole I noted they were not published as required and a number of required statements were omitted and some references were not complete. Paragraph 14 of the Code requires arrangements to be clear. I commend the school for quickly proposing amendments to address these omissions.

42. These arrangements introduce selection of up to ten percent of the



intake by aptitude in the visual or performing arts for the first time. When I considered this part of the arrangements I found that the SIF did not comply with paragraph 2.4 of the Code because it requested information that did not have a direct bearing on selection by aptitude. The school also appeared not to have taken all reasonable steps to inform parents of the outcome of the selection tests before the closing date for secondary applications as required by paragraph 1.32c of the Code.

43. I also found the arrangements to be unclear about the process of selecting applicants by aptitude and there is a discrepancy between what the arrangements say and the process as explained to me by the school. The process set out in the arrangements would, with greater clarity about which workshops the applicants attend, meet the requirements of the Code. However, the process described to me by the school requires comparisons of level of aptitude across the disciplines of the visual and performing arts and I am not satisfied that this will be achieved objectively as required by paragraph 1.31 of the Code.

### **Determination**

44. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2017 determined by The Collaborative Academies Trust for Kingsthorpe College, Northampton.

45. 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.

46. 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: 20 July 2016

Signed:

Schools Adjudicator: Mr Phil Whiffing