

DETERMINATION

Case reference: ADA2369

Objector: A representative of the National Union of Teachers

Admission Authority: The governing body of The Priors School, Warwickshire

Date of decision: 9 October 2012

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 governing body of The Priors School, Warwickshire.

I have also considered the arrangements in accordance with section 88I (5). I determine that the oversubscription criteria in the arrangements do not conform to the requirements of the School Admissions Code.

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 as quickly as possible.

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 representative of the National Union of Teachers (the objector), about the admission arrangements (the arrangements) for The Priors School, Warwickshire (the School), an Academy Free School of primary age range, for September 2013. The objection concerns the lack of availability of the School's admission arrangements in breach of paragraphs 1.46 and 1.47 of the School Admissions Code (the Code).

Jurisdiction

2. The terms of the Academy agreement between the proprietor and the Secretary of State for Education require that the admission 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 proprietor, which is the admission authority for the Academy school. The objector submitted the objection to these determined arrangements on 28 June 2012. 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 am also using my powers under section 88I to consider the arrangements as a whole.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the Code. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 28 June 2012 and subsequent email of 19 July 2012;
 - b. the School's responses to the objection, supporting documents and subsequent emails;
 - c. Warwickshire County Council's, the local authority (the LA) composite prospectus for parents seeking admission to schools in the area in September 2012 and 2013 and their response to the objection in an email of 23 July 2012; and,
 - d. a copy of the determined arrangements.

The Objection

4. The objector believes that the School has not met the requirements of paragraphs 1.46 and 1.47 of the Code because:
 - a. admission arrangements must be determined every year and it has failed to publish its admission arrangements on its web site; and,
 - b. it has failed to send a copy of its determined arrangements to the LA before the 1 May 2012.
5. In subsequent correspondence, the objector has also raised some of the issues included under "Other Matters" below.

Other Matters

6. In reviewing the arrangements I have noticed other breaches of the Code and wrote to the School on 9 August 2012 asking for comments.
7. The oversubscription criteria do not conform to the requirements of the Code as follows:
 - a. the criterion for children who have a statement of special educational needs which names the School is in breach of paragraph 1.6 of the Code;
 - b. the criterion referring to looked after children is in breach of paragraph 1.7 of the Code;
 - c. the sibling criterion does not define the term sibling in breach of

paragraph 1.11 of the Code and is conditional so that parents are not able to understand easily how places are allocated in breach of paragraph 14 of the Code; and,

- d. the arrangements do not contain a tie-breaker and are therefore in breach of paragraph 1.8 of the Code.

Background

8. The School is a small school for children aged four to eight. It has a total of 56 pupils with a published admission number of 10 for entry in 2013. It was a community school until 1996. It then became independent and in September 2011 it became a Free School.
9. The objector is a an officer of the National Union of Teachers

Consideration of Factors

10. The objector states that the School has failed meet the requirements of paragraphs 1.46 and 1.47 of the Code because it failed to publish its determined arrangements on its website and failed to send a copy to its LA.
11. In a response to me the School stated that the arrangements should now (17 July 2012) be available to "*our web users*". However, I can confirm that on 24 July 2012 the arrangements could not be found on the School's web site and it was not until early August 2012 that the School did make available its admission arrangements on its web site.
12. The objector states that the School failed to meet the requirements of paragraphs 1.46 and 1.47. Paragraph 1.46 requires an admission authority to determine its arrangements every year by 15 April. Paragraph 1.47 says, "Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying for the whole offer year (the academic year in which offers for places are made). Admission authorities must send a copy of their full, determined arrangements to the local authority as soon as possible before 1 May." The objector says the School did not meet the requirements of the Code because it did not send a copy of its determined arrangements to the LA before the 1 May 2012. The objector believed this to be the case because the LA, which had made available on its web site the composite prospectuses for 2012 and 2013, in both cases, against the School's name entered the statement "*TBC Contact the School for details*". The objector said that suspicions were confirmed by a telephone conversation with an LA officer who reported that the LA had received a "*draft code*" from the School but this was sent back for revision.
13. The School states that a copy of the arrangements for entry in 2013 was emailed to the LA in March 2012 and, as a result of the enquiry from the Office of the School Adjudicator, resent "*today*", 7 July 2012.

14. The LA states that it met with the School to discuss its arrangements and exchanged a number of emails from September 2011 to July 2012 about them. The LA received what it believed to be a draft copy of the arrangements on 21 March 2012, and returned this with comments. The LA received an acknowledgement of these comments but despite three further requests and acknowledgements a further version was not received before 1 May 2012 but a further version was received by the LA on 11 July 2012. The LA commented on this latest version "*it would seem that some further work may still be needed*".
15. On 24 July 2012, the arrangements provided by the School for both me and the LA were described by the LA as follows: "*The oversubscription criteria for example are not clear and they would also seem to be numbered and referenced incorrectly. The presence of track changes also suggests a draft document rather than a set of determined arrangements*".
16. This raised the question of whether or not the arrangements had been properly determined by the governing body. The minutes of the governors' meeting of 6 March 2012 state: "*Proposals for Admissions Arrangements 2013. The deadline was imminent for advising the County Council as to any changes in our Admissions Policy for September 2013. It was agreed that no changes need be made, and GM (the Headteacher) would speak to Craig Pratt (an officer of the LA) to enquire whether there was a need for a formal report to this effect.*"
17. To confirm that the arrangements had in fact been determined by the governing body I contacted the school and was informed in an email from the Headteacher on 19 September 2012 that : "*The board in good faith, as minuted, agreed the policy on 6 March.*" The Headteacher went on to say that after this date, he was advised by a governor that some of the policy needed revising and it was agreed that he "*would amend, but not alter the essence of the document, in line with the expectations outlined by Warwickshire*".
18. I therefore believe that this shows that the arrangements had been correctly determined by 15 April 2012 as required by paragraph 1.46 of the Code albeit in a form which required some revision. The revisions required are twofold. Firstly to give effect to mandatory requirements of the Code and secondly to address misprints such as incorrect numbering and the presence of "track changes". These are both permissible revisions under paragraph 3.6 of the Code. The mandatory revisions required are given below.
19. I have sympathy with the LA's interpretation that the arrangements submitted to them on 21 March 2012 were draft but I judge these to be the determined arrangements that should have been displayed on the School's website and either have been displayed on the LA's website or details provided of where the arrangements could be viewed as required by paragraph 1.50 of the Code.

20. In an email of 31 July 2012, the School informed me that the School's web site contained a final version of the arrangements. The following comments are based on this version of the arrangements.
21. The criterion for children who have a statement of special educational needs which names the School indicates that admittance is conditional: "*.....dependent on the school having sufficient resources available...*" This is in breach of paragraph 1.6 of the Code which requires that such children **must** be admitted.
22. The criterion referring to looked after children or "*pupils in public care or those who have been previously in care*" does not explain which previously looked after children; that is those children who were looked after but ceased to be so because they were adopted or became subject to a residence order or special guardianship order. Thus this criterion fails to meet the requirements of paragraph 1.7 of the Code.
23. The arrangements contain a sibling criterion without defining the term sibling. This breaches paragraph 1.11 of the Code which requires that admission authorities state clearly what they mean by sibling. The criterion is also conditional "*Governors, at their discretion may then find places for siblings...*" The allocation of places to siblings is either an oversubscription criterion or not, it is not a matter for discretion. Such uncertainty is in breach of paragraph 14 of the Code which requires that parents should be able to understand easily how places will be allocated.
24. The arrangements do not contain a tie-breaker and are therefore in breach of paragraph 1.8 of the Code.

Conclusion

25. For the reasons given above, I uphold the objection that the School has failed to meet the requirements of paragraph 1.47 of the Code because it has not published its admission arrangements on its web site once determined and for the whole of the offer year.
26. I do not uphold the objection that it failed to send a copy of its determined arrangements to the LA before the 1 May 2012. A copy of the determined arrangements was provided albeit in a form which understandably led the LA to view them as draft and not determined arrangements.
27. The oversubscription criteria fail to meet the requirements of the Code because:
- a. the terms "*who have been previously in care*" and "*sibling*" are not defined or explained which is in breach of paragraphs 1.7 and 1.11 of the Code;
 - b. the sibling criterion is not clear and easy for parents to understand which fails to meet the requirements of paragraph 14 of the Code;
 - c. in breach of paragraph 1.6 of the Code, the arrangements do not make it clear that children who have a statement of special

educational needs naming the School **must** be given a place; and,

d. In breach of paragraph 1.8 of the Code, the arrangements do not contain a tie-breaker.

28. The School should therefore review its arrangements in the light of the above comments, amend its arrangements as permitted under paragraph 3.6 of the Code and publish them on its web site and send them to the LA as soon as is practicable so that parents will be able to consult lawful, clear and easily understood admission arrangements.

Determination

29. 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 governing body of The Priors School, Warwickshire.

I have also considered the arrangements in accordance with section 88I (5). I determine that the oversubscription criteria in the arrangements do not conform to the requirements of the School Admissions Code.

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 as quickly as possible.

Dated: 9 October 2012

Signed:

Schools Adjudicator: Dr Melvyn Kershaw