



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA2717

**Objector:** A member of the public

**Admission Authority:** Perry Beeches The Academy Trust for Perry Beeches III the Free School, Birmingham

**Date of decision:** 13 November 2014

### **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 Perry Beeches The Academy Trust for Perry Beeches III The Free School in Birmingham for September 2015.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.**

**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 member of the public, (the objector), about the admission arrangements (the arrangements) for Perry Beeches III The Free School (the school), an academy for children aged 11 to 19 for September 2015. The objection is to the apparent consideration of reports from previous schools about children's past behaviour, attitude or achievement.

### **Jurisdiction**

2. The terms of the academy agreement between the 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 academy trust, which is the admission authority for the school, on that basis.

3. The objector submitted the objection to these determined arrangements on 26 June 2014. The objector has asked to remain anonymous but has complied with regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) by providing their name and address to the adjudicator. 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.
4. I have also considered the arrangements under section 88I(5) of the Act because it appeared to me that some other aspects of the arrangements may not comply with the School Admissions Code (the Code).

### **Procedure**

5. In considering this matter I have had regard to all relevant legislation and the Code.
6. The documents I have considered in reaching my decision include:
  - the objector's form of objection dated 26 June 2014;
  - the school's response to the objection of 17 July 2014;
  - Birmingham City Council's, the local authority (the LA), response to the objection dated 15 July 2014;
  - an email from the objector dated 17 July;
  - further information received from the LA on 8 September 2014;
  - the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - confirmation of when consultation on the arrangements last took place;
  - copies of the minutes of the meeting at which the academy trust for the school determined the arrangements; and
  - a copy of the determined arrangements.
7. I have also taken account of information received during a meeting I convened on 25 September 2014 attended by the school and the LA.

### **The Objection**

8. The objector reported a document on the school's website described as a policy on admissions which included a form requesting information from a child's previous school about academic ability, attendance and behaviour. The objector considered this would not comply with paragraph 1.9g of the Code.

## Other Matters

9. When I looked at the information about admissions published on the school's website I was concerned that what was published may not comply with the requirements of the Code because:
- there were different versions of the arrangements on the website, none of which were the same as those published on the LA's website;
  - previously looked after children were not given equal first priority;
  - there was no reference to how children with a statement of special educational needs would be admitted;
  - there was an implication that offers of places would be conditional;
  - interviews were mentioned in the process;
  - they did not define key terms such as 'looked after' or sibling;
  - they did not say how distances would be measured;
  - they did not explain what happens if applicants for the last available place live the same distance away;
  - there was no reference to waiting lists or appeals.
10. Arrangements for admission to the school's sixth form should also comply with the Code and I was concerned that this might not be the case.

## Background

11. The school is one of four schools in Perry Beeches The Academy Trust (the Trust); a fifth school is due to open in September 2015. The school is on the Attwood Estate in Birmingham. It opened as a free school in September 2013 and currently has years 7, 8, 12 and 13 on roll.
12. The Trust has decided to adopt the same oversubscription criteria as those for community schools in the city.
13. The school has a published admission number of 100 and is oversubscribed.

## Consideration of Factors

### The objection and publication of arrangements

14. The objector said that the arrangements did not comply with paragraph 1.9g of the Code which says that admission authorities **must not** "*take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement*".

15. On 10 July 2014 I followed the link provided by the objector to the admissions policy on the school's website. On that webpage I found a document headed "*Policy Document on Admissions 2013-2014*" which consisted of a timetable, a procedure and two forms. I also found another document on the school's website headed "*Policy Document on Admissions Criteria 2013-2014*".
16. The timetable in the first document appeared to be to be compliant with the Code and indicated that background information on children is only sought from schools after places have been allocated. However, later in the document it said that a verbal offer of a place would be made after steps in which background information had been collected and parents had been interviewed. It also said the offer would be verbal if parents agreed to "*comply with the school's guide-lines regarding school uniform, code of conduct and the need to complete homework.*" Paragraph 1.9 prohibits among other things placing conditions on offers of places, taking into account reports from previous schools and interviewing parents.
17. I noted that this document bore no similarity at all with the other document on the school's website or with the arrangements for the school published on the LA's website. The arrangements on the LA's website did appear to me to comply with the Code.
18. In its response to the objection the school said on 17 July 2014 that this document was not anything to do with its admission arrangements and that it was an internal document used to place children in the right sets when admitted during the year. The school said it had removed the document from its website. At the meeting on 25 September the school went further and said that this document is no longer used as the school is oversubscribed and any in-year admissions are through the waiting list or the LA's fair access and managed move processes.
19. The objector said they were still able to find the document on the school website on 17 July. I found that by typing the web address of the document into a browser I was able to access it although I could not reach it by clicking on the menus on the school's website. The objector also pointed out the existence of other information about admissions on the school's website which they considered might not comply with the Code. I had already noted there was a different version of the arrangements in on the school's website and will address this issue later in the determination.
20. I received documents from the Trust via the LA on 8 September 2014 which confirmed the 2015 arrangements had been properly determined by the Trust and what they actually were. On 1 April 2014 the Trust had agreed that the arrangements would be the same as those used by the LA. In my view these arrangements do comply with the Code.

21. Paragraph 1.47 of the Code 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 them for the whole offer year (the academic year in which offers for places are made).*” This means the arrangements should have been available on the school’s website shortly after the date they were determined.
22. The Trust failed to comply with this requirement of the Code as its determined arrangements for 2015 were not published on its website. What was published on the school’s website compounded this error as neither set of information about admissions on the website were the school’s determined arrangements and neither set complied with the Code.
23. Paragraph 14 of the Code says “*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.*”
24. There will be parents and others who only looked at the school’s website for information on admissions. There is no reason why they should look elsewhere for corroboration of the school’s arrangements and they would believe either of the arrangements they saw on the school’s website were those in operation. Those parents therefore would have been misinformed about how places at the school will be allocated. This could have resulted in an application for a place at the school not being made.
25. Parents who looked at both the school’s and the LA’s website would have been presented with different information on each site. This does not contribute to the clarity of the “*practices used to decide the allocation of school places*” or help parents to understand them. This lack of clarity means the requirements of paragraph 14 of the Code were not met.
26. At the meeting on 25 September the school recognised the areas in which the material published on its website had not been consistent with its arrangements or with the Code. The school clearly wanted to comply with the Code and by the date of the meeting was in the process of changing its website to address the issues.

## **Other Matters**

### Sixth form arrangements

27. The school admits students into its sixth form from other schools. The process for applications and allocation of places must comply with the Code.

28. The requirements of paragraph 1.47 of the Code include the publication of sixth form arrangements. During the summer months of 2014 no PAN or oversubscription criteria for the sixth form were published on the school's website; these are key elements of the arrangements. An application form was however available for applicants to complete on-line.
29. Shortly before my meeting at the school on 25 September, a PAN and oversubscription criteria for the sixth form were published on the school's website. I noted these were not the same as the oversubscription criteria published by the LA for community school sixth forms as they did not include any priority for siblings. As on 1 April 2014 the directors had agreed that the school's admission arrangements would be "*in line with Birmingham City Council's admission policies*", I asked the school at the meeting why the published sixth form arrangements were not the same as the LA's. I was told that the arrangements were the same as the LA's and that the website would be corrected.
30. Paragraph 2.4 of the Code explains that any supplementary information forms (SIF) used in the admissions process cannot ask for information that "*does not have a direct bearing on decisions about oversubscription criteria*". The oversubscription criteria for the sixth form are based on address and siblings, I was therefore concerned to note that the sixth form application form included questions about:
- next of kin;
  - reasons for wanting to do A levels at the school;
  - Duke of Edinburgh, first aid, music or other qualifications;
  - references from previous schools;
  - any additional support needed;
  - ethnicity; and
  - ambitions.
31. This form appears to me to be doing three things. Firstly collecting information that might be the basis of the meeting allowed by the Code to discuss options and academic entry requirements before application; although it should be noted that paragraph 1.9m says "*this meeting cannot form part of the decision making process on whether to offer a place*". Secondly to serve as an application form which collects information required to assess applicants against the oversubscription criteria should the number of external applicants who meet the academic threshold exceed the PAN. And finally to collect personal information for the school's use after a place has been offered, accepted and taken up. Using one form to serve all three purposes is not compatible with paragraph 2.4 of the Code.
32. At the meeting the school agreed to change the sixth form application form in order to comply with requirements.

## **Conclusion**

33. In reaching my conclusion I have taken into account the following considerations.

- The school failed to publish its 2015 admission arrangements as required by paragraph 1.47 of the Code.
- The admission arrangements published on the school's website did not comply with the Code. In particular they included a statement which did not comply with paragraph 1.9g of the Code referred to by the objector.
- The admission arrangements published on the school's website were not the school's determined arrangements for 2015. A parent or other person who sought information on the school's website between April and September would have had no reason to believe the arrangements on the school's website were not the school's arrangements and would have been misinformed by both sets of arrangements. This does not meet the requirement of paragraph 14 of the Code for clarity.
- The school has recognised that it did not comply with the Code and has taken steps to address the issues by publishing its determined arrangements on its website.

34. For the reasons set out above I partially uphold the objection and find that the school has not complied with paragraphs 14 and 1.47 of the Code.

35. I also find that the sixth form admission arrangements did not comply with paragraph 2.4 of the Code as the application form asked for information which was not required to assess the applicant against the oversubscription criteria.

36. The school responded promptly to address these issues.

## **Determination**

37. 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 Perry Beeches The Academy Trust for Perry Beeches III The Free School in Birmingham for September 2015.

38. I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.

39. 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: 13 November 2014

Signed:

Schools Adjudicator: Phil Whiffing