



DETERMINATION

Case reference: VAR639

Admission Authority: The Governing Body of Heathside School,
Surrey

Date of decision: 25 July 2014

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing body for Heathside School, Surrey for September 2015.

I determine that for admissions in September 2015 the admission arrangements will not include provision in the school's oversubscription criteria for priority for admission to be given to up to 21 pupils on the basis of aptitude in one or more of the following subjects: design and technology, music and sport.

I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in relation to the admission of pupils with statements of special educational needs that name the school and the definition of looked after and previously looked after children.

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. The governing body of Heathside School (the school) in Surrey, which is the admission authority for the school, has referred a variation to the adjudicator about the admission arrangements (the arrangements) for the school, a foundation secondary school for pupils aged 11 – 18 for September 2015. The proposed variation is to remove from the school's oversubscription criteria the provision for priority for admission to be given to up to 21 pupils on the basis of aptitude in one or more of design and technology, music and sport.

Jurisdiction

2. The referral was made to me in accordance with section 88E of the

School Standards and Framework Act 1998 which states that:

“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

3. I am satisfied that the proposed variation is within my jurisdiction.

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 school’s letter of referral of 2 July 2014 and supporting documents, including minutes of the relevant meetings of the school’s governing body and of the admissions committee of the governing body;
- b. the determined arrangements for September 2015 and the proposed variation to those arrangements;
- c. the email from Surrey County Council, the local authority (LA) for the area, dated 15 July 2014 setting out its support for the proposed variation;
- d. a copy of the LA’s composite prospectus for parents seeking admission to schools in the area in September 2014; and
- e. a copy of the letter from the school dated 25 June 2014 notifying the appropriate bodies about the proposed variation.

Background and consideration of factors

6. The school determined its admission arrangements for Year 7 (Y7) for 2015 at a meeting of the admissions committee of the governing body on 11 November 2013. The oversubscription criteria agreed then for Y7 for September 2015 can be summarised as follows:

- a. looked after and previously looked after children;
- b. children with a particular medical or social need which makes attendance at the school essential;
- c. siblings of existing pupils;

- d. children with an aptitude in one or more of design and technology, music and sport – up to a total maximum of 21 places;
 - e. children resident in the catchment area;
 - f. children who attend two named feeder schools but live outside the catchment area;
 - g. children outside the catchment area, with priority given to those whose address is closest to the nearest point on the perimeter of the catchment area.
7. The arrangements include a tie-break (the drawing of lots) to distinguish between two applicants who qualify equally for the last available place.
 8. The school is popular and oversubscribed. For entry to Y7 in 2014, 751 applications were received of which 327 were first preference applications. The school's published admission number (PAN) for Y7 is 210 and is due to be raised to 240 from 2016.
 9. During the course of considering and determining the arrangements for September 2015, the admissions committee had also been considering the scope to change the arrangements for September 2016. In particular, the governing body was considering going out to consultation in accordance with regulations 12, 13, 16 and 17 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the regulations) and paragraphs 1.42 – 1.45 of the Code. The intention was to end with effect from 2016 the priority in the oversubscription criteria given to children with an aptitude in design and technology, music or sport.
 10. Having determined its arrangements for 2015, the school's governing body then decided that its circumstances had changed significantly and that it therefore wished to seek a variation to the determined arrangements and to remove the priority for those with an aptitude in design and technology, music and sport from September 2015. The application for a variation explains that the number of applicants from the school's catchment area who could not be offered a place during the initial allocation of places had risen as follows:

Year	Number of in catchment applicants not offered a place
2012	21
2013	45
2014	86

11. At the same time, the number of offers made to applicants which were subsequently turned down thus freeing up places for those on the schools waiting list has declined from 49 in 2012 to 17 in 2014.
12. Against this background, the admissions committee of the governing body decided at its meeting on 16 June 2014 to request a variation to its determined arrangements.
13. The LA in its email supporting the proposed variation notes that the number of pupils in the school's catchment area seeking a place at the school is increasing. There is no requirement for pupils admitted under criterion d. above (aptitude for design and technology, music or sport) to live in the school's catchment area. The LA considers that removal of this priority would increase the number of pupils attending the school who are resident within its catchment area and this would in turn help to provide places for the growing number of pupils in Elmbridge – which is the part of Surrey in which the school is located.
14. The school has decided that the change in its circumstances in terms of the increasing demand which it cannot meet for places for pupils resident in its catchment area warrants a variation to its determined admission arrangements. The school has followed the process required by the regulations and the Code. It has also published on its website details of the proposed variation. No one will have yet applied to the school for a place in September 2015. The aspect of the arrangements to be changed relates to those to be given priority on the basis of aptitude and no one will as yet have any expectation that they might qualify for a place on this basis. I consider that it is reasonable for the arrangements to be varied as proposed by the school and in so doing increase the number of places available for children living in the school's catchment area.

Other matters

15. When I reviewed the arrangements, I could not find any reference to the admission of children with statements of special educational needs (SEN). Paragraph 1.6 of the Code states: "All children whose statement of SEN names the school **must** be admitted." This reflects the provisions of section 324 of the Education Act 1996. It is essential that parents – the most important readers of admission arrangements – know this. Parents whose child may be being assessed for a statement of SEN will wish to be assured that if Heathside is named on the statement their child will be admitted. Other parents have a right to know that children with statements that name the school will be admitted and that this can affect the number of places available for other children. I find that by not referring to children with statements of SEN the arrangements are not clear as required by paragraph 1.8 of the Code. The Code requires the school to revise its arrangements as quickly as possible.
16. I also noted that the definitions of looked after and previously looked after children used in the arrangements were not quite accurate. The

arrangements define looked after and previously looked after children as follows:

“Looked after children (children in public care including formerly looked after children who have been adopted or made subject to a Residence or Special Guardianship Order)”

17. I have two concerns with the school's approach. First, a looked after child is not the same as a child in public care. A looked after child is a child in the care of a local authority or being provided with accommodation by a local authority. The school's arrangements do not cover children who are being provided with accommodation. Second, the wording implies that formerly looked after children are a subset of looked after children which they are not. These children are no longer in care or being provided with accommodation and accordingly do not fall within the definition of looked after children.
18. Paragraph 1.7 of the Code requires that the highest priority in admissions be given to looked after and previously looked after children. Footnote 17 to that paragraph provides a comprehensive definition of looked after and previously looked after children. The wording used in the school's arrangements means that the arrangements do not conform with the Code and the Code requires that they are revised as quickly as possible.

Conclusion

19. I have concluded that the proposed variation to the arrangements is an appropriate response to the schools' changed circumstances.
20. I have concluded also that the arrangements do not conform with the Code in relation to the admission of children with statements of SEN that name the school and in relation to the definition of looked after and previously looked after children.

Determination

21. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing body for Heathside School, Surrey for September 2015.
22. I determine that for admissions in September 2015 the admission arrangements will not include provision in the school's oversubscription criteria for priority for admission to be given to up to 21 pupils on the basis of aptitude in one or more of the following subjects: design and technology, music and sport.
23. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in relation to the admission of pupils with statements of special educational needs that name the school and the definition of looked after and previously

looked after children.

24. 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: 25 July 2014

Signed:

Schools Adjudicator: Shan Scott