



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2716

Objector: A member of the public

Admission Authority: Perry Beeches The Academy Trust for
Perry Beeches II 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 II The Free School in Birmingham for admission in 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 II The Free School (the school), an academy school for children aged 11 to 19 for September 2015. The objection was to the apparent use of "first preference first" in the arrangements.

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 at the school attended by representatives of the school and the LA.

The Objection

8. The objector reported that on the school's website the admissions pages included wording that suggested that parents should put the school as their first preference. The objector said this did not comply with paragraph 1.9c 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 two different versions of the arrangements on the website, neither of which were the same as those published on the LA's website;
 - the published admission number (PAN) was shown as 115 on the school's website and as 100 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;
 - the criteria were not clearly numbered;
 - the arrangements 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; and
 - 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 the Perry Beeches Trust (the Trust) a fifth school is planned to open in September 2015. The school is in the Jewellery Quarter in Birmingham. It opened as a free school in September 2012 and currently has year groups 7, 8, 9, 12 and 13.
12. The school is currently oversubscribed with most pupils living close to the school.

Consideration of Factors

The objection and publication of arrangements

13. The objector said that the arrangements did not comply with paragraph 1.9c of the Code which says that admission authorities **must not** "*give any extra priority to children whose parents rank preferred schools in a particular order, including 'first preference first' arrangements.*"

14. On 27 June 2014 I followed the link provided by the objector to the admissions section on the school's website. On that page I found the statement "*It is therefore important that parents applying for a place for their child at Perry Beeches the Academy should place it as their FIRST PREFERENCE*". I also found another page on the school's website which contained a document headed '*Policy Document on Admissions 2012*'. This page showed a completely different set of arrangements; these did not include the reference to first preference first. Neither set of arrangements appeared to me to comply with the Code for one or more of the reasons listed above.
15. I also looked at the LA's website on 27 June 2014 and noted that the arrangements published there for the school were different from both sets of arrangements on the school's website. The statement about first preference was not included in the arrangements found on the LA's website and these arrangements appeared to me to comply with the Code.
16. In their comments on the objection the LA agreed the statement on the school's website was misleading. I noted that in the LA's composite prospectus it is clearly explained how the order of parents' preferences is used to allocate places and that schools are not told about the position in which they are placed on the common application form (CAF).
17. In its response of 17 July the school refuted the allegation that it had contravened paragraph 1.9c of the Code and said it had removed the sentence referring to first preference from their website.
18. After seeing the school's response and noting that the wording had been removed from the website the objector said, by email on 17 July 2014, there was no need to take the objection further. However, there were other matters that appeared not to comply with the Code and at that time I had not been provided with a copy of the school's determined arrangements or evidence that they had been properly determined. Without such evidence I was not able to complete this case as I must be sure the arrangements I am considering are properly determined.
19. I received the necessary documents via the LA on 8 September 2014. I am now satisfied that the minutes of the meeting of the Trust's directors dated 1 April 2014 show the arrangements were determined as required by the Code. At that meeting the Trust agreed to use the LA's admission policies and procedures.
20. 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.

21. 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.
22. 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.”*
23. 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, for example, a parent unnecessarily changing the order of preferences or to an application for a previously looked after child not being made.
24. 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.
25. 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

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

27. 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.
28. 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.
29. 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.
30. 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.
31. At the meeting the school agreed to change the sixth form application form in order to comply with requirements.

Conclusion

32. 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 1.9c 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.

33. 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.

34. 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.

35. The school responded promptly to address these issues.

Determination

36. 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 Perry Beeches The Academy Trust for Perry Beeches II The Free School in Birmingham for September 2015.

37. 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.

38. 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