

DETERMINATION

Case reference: ADA/002195

Admission Authority: The Governing Body of The Royal School
(Crown Aided)

Date of decision: 19 October 2011

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the referral about the admission arrangements for The Royal School (Crown Aided) and concluded that in the matter brought to the attention of the adjudicator they conform with the requirements for admission arrangements.

The Referral

1. The admission arrangements (the arrangements) of The Royal School (Crown Aided), (the School), for September 2011 have been brought to the attention of the Schools Adjudicator in a letter from the Royal Borough of Windsor and Maidenhead's Admissions Forum (the Forum). The letter cites oversubscription criterion 4 "Children with a grandparent who is or was a resident within the boundaries of the Crown Estate Windsor and Windsor Castle for a period of at least three years." The Forum asks for "comments on the legality of this?"

Jurisdiction

2. Under section 88I(5), the Adjudicator has the power to consider admission arrangements which come to his attention by any means, other than by way of referral by the Secretary of State or local authority report under section 88P or by way of an objection under section 88H.
3. I am satisfied that I have the power to consider these arrangements and it is within my jurisdiction under section 88J(2)(b) to make any necessary changes.

Procedure

4. In coming to my conclusions, I have had full regard to the School Admissions Code (the Code), relevant legislation and guidance.
5. The documents I have considered in reaching my decision include:
 - a. the letter of referral with the arrangements for admissions in 2011 attached and subsequent correspondence;
 - b. the School's response to the referral, supporting documentation

including a copy of its admission arrangements for September 2012, information from its website and additional information provided during a meeting at the School on 30 September 2011; and

- c. The Royal Borough of Windsor and Maidenhead's, the local authority's (the LA) website booklet for parents for those seeking admission to schools in the area in September 2012.

Key Issue

6. The referral followed the meeting of the Forum on 8 June 2011.
7. The letter of referral asked simply for comments on the legality of the oversubscription criterion. Following receipt of the School's response to a request for information, the Forum was asked to provide a copy of the minutes of the meeting at which the decision was taken to refer the arrangements to the adjudicator and if not clear from those minutes the part of the Code or legislation that the Forum believe may be being contravened.
8. The minutes of the Forum say that the oversubscription "was unfair and needed further investigation." There is no reference to any specific part of the Code or legislation concerning admissions in the minutes or the covering email.
9. The issue therefore seems to be whether the fourth oversubscription criterion is fair. As the oversubscription criterion referred by the Forum is the same in the arrangements for 2012 as it was for 2011 I have considered the question asked by the Forum in relation to both sets of arrangements and also the whole of the 2012 arrangements.

Background and Consideration of Factors

10. The School is a one form of entry first school for children aged 4 to 9 years with an admission number of 20. For several years the school has not been oversubscribed. The School is Crown Aided, the only such school in England, having been established by Her Majesty Queen Victoria and His Royal Highness Prince Albert to provide permanent education for children of families in Her Majesty's immediate service within The Great Park. The School is owned by the Crown and it occupies buildings on land owned by the Crown Estate. It is situated within Windsor Great Park with access solely across Crown land. The Crown Estate has the power to withhold permission to cross the land to the School. The Crown provides financial and other support to the School. The School also has a close relationship with the Church of England and is designated as a Church of England school.
11. The LA has both two and three tier schools in different parts of its area.

Windsor has first, middle and upper schools, and Maidenhead, Ascot, Wraysbury and Datchet have primary or infant and junior schools and secondary schools. There are therefore different ages of transfer in different parts of the LA. Only the schools in Windsor have the same transfer ages as the School. The schools in the neighbouring local authorities nearest to the boundary of the Great Park are all part of two tier arrangements.

12. The School has changed its admissions policy over the years to try to ensure it complies with the Code at the same time retaining its unique designation. I have seen, for example, the arrangements for Admissions in 2007 and note the changes that have been made since then in order to comply with the changes in the Code.
13. Having sought but not been provided with any specific reference about how the Forum thinks the arrangements contravene the Code and seeing in the minutes only that the criterion was unfair and needed further investigation, I am left to consider in what ways the arrangements might be unfair in relation to what the Code says about oversubscription criteria.
14. Chapter 2 of the Code, "Setting Fair Oversubscription Criteria" describes how to achieve good practice in setting oversubscription criteria and identifies oversubscription criteria that are unfair and must not be used.
15. All schools except designated grammar schools must admit all applicants if there are places available. This the School has done. It does not ask parents for financial contributions, does not interview, complies with the law on the admission of children who have a statement of special educational need and gives top priority to looked after children. There is no complex points system, no limitation on parents expressing a preference for the School. Of the prohibition of unfair criteria in paragraph 2.16 a) to o) I do not believe that the school contravenes the Code.
16. The Code at paragraph 4.12 requires a local authority to refer an objection to the adjudicator if it considers a school's arrangements are unlawful or appear to be unfair, unclear and subjective or encourage social segregation. No objection has been received from the LA. Parents may object to arrangements, but none has done so. The Diocese has not referred the arrangements.
17. I have therefore pondered on as to whom the Forum may have thought the arrangements unfair.
18. For families living in an area where their local schools are part of a two tier system they would be unlikely to choose to seek a place at a more distant first school and then have to seek a transfer to the next stage of education at a non-standard transfer time so that a place at an appropriate school would have to be sought through an in-year

application, and may not be successful. The nearest schools in the LA to the School and in neighbouring local authorities are primary schools or infant and junior schools. The nearest schools in the three tier system are in Old Windsor and Windsor. The School is over four miles by road from the centre of Windsor and at least two miles from the nearest part of Windsor and Old Windsor and over one mile from the nearest entrance to the Great Park. I have looked at maps of the area and the maps provided on the LA's website showing the location of schools and it does not seem to me that anyone living outside the Great Park would be under two miles away and that the School would be their nearest school. It seems to be possible from my study of maps that only those from outside the Crown Estate who could provide their own transport to the School would be able to take up a place at the School.

19. In the last four years only three children have been admitted under the oversubscription criterion queried by the Forum that is three out of a possible 80 places. The School does admit children from outside The Great Park against its remaining oversubscription criteria and 19 have been admitted over the last four years and in three of the four years this included all who applied for a place at the School.
20. The School makes its case for retaining the criterion to preserve a link with its historic foundation and the fact that the School has since its founding enjoyed continued links with successive monarchs who have demonstrated a close interest in its development and in the well being of its pupils. The School's value statement is Faith, Achieving, Motivated, Inclusive, Learning and supported by our communitY – FAMILY which the School says it is providing for families from the Crown Estate. The School provided examples of how the place for the pupil against the oversubscription had been of especial help to that family in its particular circumstances.
21. I think that it is understandable that despite no previous concerns about the oversubscription criterion, looking at it the members of the Forum may have had some instinctive feeling that it might not be entirely fair. But to be found unfair there must be a clear contravention of the Code with clarity about the group for whom the arrangements are not fair. I do not find that the arrangements are in contravention of any of the mandatory requirements or prohibitions of the Code and in the absence of any evidence to the contrary from the Forum I have had to rely on my own investigation about the fairness of the arrangements for parents who may wish their children to attend the School. I cannot identify a group that can reasonably regard the arrangements as unfair.
22. While considering the referral I also looked at the arrangements for 2012 as a whole. I considered there were changes that ought to be made to improve the clarity of the arrangements and discussed these with the School. For example, the first oversubscription criterion is correctly worded, but note 3 relating to it was inaccurate and served no purpose so it needed to be deleted; the arrangements do not specify a

tie-breaker which in fact would be the process in note 6 so some rewording is needed. The School agreed to make these and other similar changes which they are entitled to do to comply with the mandatory provisions of the Code.

Conclusion

23. I have concluded for the reasons given above and on the basis of the evidence available to me and my investigations that the oversubscription criterion concerning the priority for children with a grandparent who is or was a resident within the boundaries of the Crown Estate Windsor and Windsor Castle for a period of at least three years is not unlawful.

24. I am not making any changes to the arrangements for admissions in September 2012 as the changes to achieve better clarity and thus compliance with the Code can be made immediately by the School and the School has agreed to make these amendments.

Determination

25. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the referral about the admission arrangements for The Royal School (Crown Aided) and concluded that in the matter brought to the attention of the adjudicator they conform with the requirements for admission arrangements.

Dated: 19 October 2010

Signed:

Schools Adjudicator: Dr Elizabeth
Passmore