

DETERMINATION

Case reference: ADA2294

Objector: A Parent

Admission Authority: The governing body of The Knights Templar School

Date of decision: 13 August 2012

Determination

In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of The Knights Templar School, Hertfordshire.

I have also considered the arrangements in accordance with section 88I (5). I determine that the arrangements do not conform fully 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 parent, the objector, about the admission arrangements (the arrangements) for The Knights Templar School (the School), an Academy school of secondary age range for September 2013. The objection is to the proposed change in the priority order of the oversubscription criteria so as to reduce the priority of out of priority area applicants with a sibling at the School and that this change is to be introduced without a phased implementation period.

Jurisdiction

2. The terms of the Academy agreement between the proprietor 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 proprietor, which is the admission authority for the Academy school, on that basis. The objector submitted his objection to these determined arrangements on 14 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 of the Act to consider the arrangements as a whole.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

The documents I have considered in reaching my decision include:

- i. the parent's form of objection dated 14 June 2012;
- ii. the School's responses to the objection and to subsequent enquires by the adjudicator, and supporting documents;
- iii. Hertfordshire County Council's, the local authority's (the LA), composite prospectus for parents seeking admission to schools in the area in September 2012;
- iv. the LA's responses to the objection and subsequent enquires by the adjudicator; and
- v. the determined arrangements for the School.

The Objection

4. The objector is a parent with one child attending the School and a younger child who will apply in the future. The School is the nearest school to the family home but the family do not live in the priority area. The objector has raised the following objections:
 - i. changing the order of priority of the oversubscription criteria in the arrangements so reducing the priority of applicants with siblings at the School is unfair and discriminating, in contravention of paragraph 14 of the Code;
 - ii. making this change without a suitably staggered implementation period discriminates against families outside the priority area who had planned for younger siblings to attend the School; and,
 - iii. not taking sufficient account of the consultation process feedback thus contravening paragraph 1.44 of the Code.

Other Matters

5. In reviewing the arrangements I have noticed that there may be other breaches of the Code and wrote to the School inviting further comments.
6. Although the minutes of the School's governing body show that there was a consultation process, I cannot be certain that that the process followed met all the requirements of paragraphs 1.42 to 1.45 of the Code.
7. The arrangements as published on the School's web site appear to be a

summary and not the full arrangements so they lack essential information such as definitions. There is no clear definition of the term sibling as required by paragraph 1.11 of the Code.

8. In one criterion of the oversubscription criteria published on the web site, there is a reference to applicants "*who live nearest to the school*" without defining how this distance will be measured. This is in breach of paragraph 1.13 of the Code.
9. The arrangements as published on the School's website do not contain a final tie break as required by paragraph 1.8 of the Code.

Background

10. The School is a large 11-18 secondary school which Ofsted last inspected in February 2009 and judged it to be outstanding. In the report the School was described as follows. "*Knights Templar is a large over-subscribed school serving the town of Baldock and surrounding villages.... The school has a large sixth form that also attracts students who have previously attended other schools.*"
11. The School became an Academy and consequently its own admissions authority on 1 April 2011. The major effect of the School's proposals is to decrease the priority of out of priority area siblings in the list of oversubscription criteria.

Consideration of Factors

12. The objector contends that it is unfair and discriminating to change the order of priority of the oversubscription criteria so that a number of families who live outside the priority area are unfairly discriminated against. The School is his family's closest secondary school but they are not within the School's priority area. He assumed that when his elder child successfully gained a place at the School that the sibling criterion in the then admission arrangements would lead to his younger child also gaining a place.
13. The LA states that the School has a published admission number of 210 and is "*always oversubscribed*". The LA estimates that unmet demand for Year 7 places will rise from 21 in 2015 to 39 in 2019. It reports an increasing demand in many areas of the county and a similar change in admission arrangements may be given consideration by other schools wishing to ensure that local children are able to access places at the local school. The LA states that it has no objections to the School's proposals "*or indeed the spirit of....*".
14. The School's funding agreement states in paragraph 12 that "*the school will be at the heart of its community*".
15. The School, in its statement about the proposals, claims that the change in priority of the oversubscription criteria is to give a higher priority to pupils living in the priority area "*We are anxious to retain our character as an all-ability comprehensive school serving the needs of our community – our priority area. If we do not change our rules then the priority area will shrink*

in size. Those children who live in the villages, in parishes which are part of the school's priority area will not get places."

16. The proposed change will make it less certain that those children with siblings at the School but living outside the priority area will gain a place. However, the proposals are supported by the LA and the School's funding agreement, and the School has articulated a clear rationale which is in my opinion fair and reasonable and does not contravene the requirement for the arrangements to be fair, clear and objective as described in paragraph 14 of the Code.
17. The objector believes it is particularly unfair to introduce this change without a suitably staggered implementation period to allow families to plan alternative provision if necessary. He states *"In our view the resultant changes, agreed by the Governing Body, may have majority support, however, this does not mean the changes should be introduced in a manner that unfairly impacts on a small minority of families when a practical alternative exists to avoid such impacts i.e. phasing the implementation of the revised criteria for only those families who already have siblings within the school. This would have minimal, if any, impact on achieving the intended outcomes from the proposed changes to the admissions criteria."*
18. The minutes of governing body meetings note that *"We have also had a few letters from parents who live out of the area with siblings at KTS"* (19 October 2011) and *"... and a small number of out of area sibling connections who were, understandably, opposed"* (23 November 2011).
19. The LA states *"Although I sympathise with the case made by the objector, and the request for the proposal to impact only on new pupils, it does not seem appropriate for the school to be prevented from introducing these arrangements in full for 7 years"*.
20. In a letter to me, the School refutes the claim that the objector's proposed phased implementation would have minimal impact *"If ... some out of area siblings were treated preferentially, this would only make a difference in years where the in-area applications fill the PAN or nearly so. In such a year, each out of area sibling admitted under the proposals ... would exclude an in-area non-sibling. It is incorrect regarding such years to assume that this would have "minimal, if any" input on achieving the intended outcomes. Those families affected, in this case would be, because of the school's geographical position within its priority area, those who would be the furthest from the nearest alternative Hertfordshire school."*
21. I have sympathy with the objector's views and understand the case he makes concerning the possibly small number of families affected. However, there is no requirement in the Code for such changes to be phased and the School has considered the consequence of its proposals and has rejected them in a reasoned argument. I am of the opinion therefore that the Code's requirement expressed in paragraph 14 for the arrangements to be fair and clear has not been breached.

22. The objector states that feedback on this matter in the consultation process was not given sufficient consideration. The School says that it received 89 responses from present and prospective parents, of which 83 were in favour of the proposals. It also states that it took the objector's views "*very seriously including a personal interview with the Chair of Governors*". The School's claim that it has considered the views of those opposed to the proposals is supported by the reasoned considerations given above. There is no dispute about the differing level of support for and opposition to the change in priority for out of priority area siblings. The School in my view has not simply made a decision based on the number of responses for and against, but has considered the implications for different groups of parents and children and has made a reasoned decision for the change it has made.
23. I am therefore not persuaded by the objector's contention that insufficient weight was given to the views of the dissenting parents and do not agree that paragraph 1.44 of the Code in respect of parents' views has been breached.
24. In the course of considering the objection I found there were matters that suggested the requirements of the Code may not have been fully met. There appeared to be some uncertainty about the respective roles of the School and the LA and the duration of the consultation process. In a letter to parents dated 6 March 2012, the School wrote "*Hertfordshire County Council are now consulting about our proposed Admission Policy for 2013/14*" and in the minutes of the governors' meeting of 19 March 2012 there is the statement "*At the end of this month local authority consultation on changes will conclude*". This was refuted by the LA saying "*HCC were in no way 'consulting' on the school's behalf at this stage.*" However, the LA has said that they consulted on behalf of the school prior to the 1 March 2012. I am of the opinion that the letter to parents would have led them to believe that the consultation process was still in progress. The consultation period as publicised by the School in the letter was in breach of paragraph 1.42 of the Code which requires the consultation to be completed by 1 March 2012.
25. The School's initial proposals in September 2011 did not include a criterion referring to the children of staff at the School. According to the minutes provided, this was discussed in a governors' meeting of 19 October 2011 and the inclusion of the criterion agreed in the meeting of 23 November 2011. In the meeting of 6 February 2012, it was agreed to inform parents of a change to "*rule 5*" through the School's newsletter and "*primary schools in the area*". Although the Code allows such a criterion in paragraph 1.39, I am not persuaded that for such a change in the oversubscription criteria, the consultation process met the requirements of paragraph 1.45 of the Code.
26. The School issued an initial letter to parents informing them of the proposals in September 2011 and considered the responses in meetings of the governing body from October 2011 to March 2012. The School also consulted with the LA. Hence, I believe that the governors of the School informed parents and the LA of the proposals and considered and debated

many responses from parents and others and parents had an appropriate opportunity to respond and comment. However, for the reasons given above, I am of the opinion that the consultation did not meet all the requirements of paragraphs 1.42 - 1.45 of the Code.

27. Although the copy of the arrangements sent to me and displayed on the LA's web site were comprehensive versions, I am concerned that the arrangements as displayed on the web site of the School, as the admission authority, and therefore likely to be consulted by some parents are not the School's full admission arrangements. 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 the offer of places are made)....." The determined arrangements are the full arrangements and it is these arrangements that must be displayed as soon as they are determined. As shown on the School's website the arrangements include some definitions such as the priority area for the School, but do not include all the essential information including definitions such as sibling, how distance is measured, or a final tie breaker all of which are required by paragraphs 1.11, 1.13 and 1.8 respectively. The School needs to ensure that it displays its arrangements as required by the Code and that there are no differences in the arrangements so whether parents look at the School's or LA's websites they see the same, full arrangements.

Conclusion

28. The objector asserts that it is unfair and discriminatory to change the order of priority of the oversubscription criteria. I am of the opinion that the School has a reasonable and legitimate aim to prioritise local families. The School's funding agreement and LA support this aim and the School has the support of a large majority of parents who responded to the consultation. I am of the opinion therefore that this change meets the requirements of paragraph 14 of the Code, for the arrangements to be fair, clear and objective.

29. The objector claims that it is unfair to make these changes without a staggered implementation period. Although I have sympathy with the objector's views and understand the case he makes, there is no requirement in the Code for such changes to be phased. The School has considered the consequences of his proposals and has rejected them in a reasoned argument. I believe therefore that the School's proposals are reasonable and not in breach of the Code.

30. The objector believes that the School took insufficient account of the consultation feedback. However, there was a clear majority of parents in favour of the proposals and they were supported by the LA. The School says it took the objections "*very seriously*" and said that the chair of governors met with the objector to discuss his concerns. It has also advanced reasoned arguments for its decisions. I am not, therefore, persuaded that the School took insufficient account of the consultation feedback from parents in breach of paragraph 1.44 of the Code.

31. For the reasons given above, I believe that the consultation process was not fully compliant with the Code and the arrangements as displayed on the School's website do not meet the requirements of the Code in respect of displaying determined arrangements once they are determined.

Determination

32. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of The Knights Templar School.

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

34. 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 August 2012

Signed:

Schools Adjudicator: Melvyn Kershaw