

DETERMINATION

Case reference: ADA 2637

Objector: Clerk to a Cornwall admissions appeal panel

**Admission Authority: The Academy Trust of Penrice Academy,
St Austell, Cornwall.**

Date of decision: 17 July 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the Academy Trust of Penrice Academy.

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 clerk to an admission appeals panel, the objector, about the admission arrangements (the arrangements) for Penrice Academy (the school), an academy secondary school for pupils aged 11-16, for September 2015. The objection is that the admission arrangements have errors and anomalies rendering them unclear and unreasonable.

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. The objector submitted his objection to these determined arrangements on 13 May 2014. 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.

Procedure

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

4. The documents I have considered in reaching my decision include:
 - a. the objector's email of objection dated 13 May 2014 and further correspondence;
 - b. the school's response to the objection and supporting documents;
 - c. Cornwall Council's, the local authority (the LA) composite prospectus for parents seeking admission to schools in the area in September 2014;
 - d. a map of the area identifying relevant schools;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meeting at which the Academy Trust of the School determined the arrangements; and
 - g. a copy of the determined arrangements.

The Objection

5. The objector argues that the admission arrangements have errors and include matters that are neither relevant nor correct; they therefore are in breach of the Code at paragraph 1.8 which says "*Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.*"

Background

6. The school became an academy 1 April 2011. On 24 April 2013 the school applied to the Education Funding Agency (EFA) for permission to vary its admission arrangements. This was agreed by the EFA on 10 June 2013. An independent admission appeals panel considered there were issues that did not comply with admissions law in the admission arrangements for 2014 and made an objection as these same arrangements are now the determined arrangements for 2015.

Views of the other parties

7. The school responds that it had, in error, included sentences from the previous LA admissions policy and had now removed them from the 2015 arrangements and that they have taken legal advice over the "*incorrect use of stand-alone criteria around distance from the school*" and agree that the criterion needed to be changed.

8. The LA comments that the confusing sections appear to be errors made from mistakenly using sections from the composite prospectus.

Consideration of Factors

9. I shall consider only the 2015 arrangements and how they comply with

the Code. 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.*”

General Clarity

10. The school’s admission arrangements are contained in a four page document headed “Penrice Academy – Student Policy, subtitled Admissions policy”; the first two pages of the document deal with the requirements on the academy for the admission of pupils.

11. While this may be of interest to parents it does not form part of the determined admission arrangements and it is these that parents should be able to locate easily on the school’s website and understand. I find this document obscures what the admission arrangements are and is not sufficiently clear.

Published Admission Number (PAN)

12. The school must publish each year the number of pupils and year group to which they will admit pupils. The school has not done so. Indeed there is a reference in a footnote in its policy to pupils in year R, year 7 and year 12. Paragraph 1.2 of the Code says, “*Published Admission Number (PAN) - As part of determining their admission arrangements, all admission authorities **must** set an admission number for each ‘relevant age group.’*” The school is a secondary school without a sixth form and only admits year 7 pupils and this should be clear in the arrangements.

13. The school’s PAN is 270 and the school should make it clear in its arrangements that all applicants for a place in year 7 will be admitted if 270 or fewer apply.

Children with Special Educational Needs (SEN)

14. The school must make clear that pupils who have a statement of special educational needs naming the school will be admitted. The sentence it uses in the arrangements does not say this. It says, “*If a child with a statement of special educational needs has the name of a maintained school specified in his/her statement, the child **must** be admitted to that school.*” As the school is not a maintained school, its obligation to admit such pupils, is not clear and is in breach of the Code at paragraph 1.6.

Oversubscription Criteria

15. Further, paragraph 1.6 requires; “*Oversubscription criteria - The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied*”. The school’s introduction to its oversubscription criteria is confusing, it writes, “*For all other children the following priority order will be used to*

decide which children should occupy any vacant places in Year 7 at a Community secondary school in September 2012.” I presume this is a sentence taken from the LA’s composite prospectus but has no place in the school’s arrangements.

16. The oversubscription criteria are

- i Children in care or children who were previously in care but have ceased to be so because they have been adopted, become subject to a residence order or special guardianship order. (Children in care are also referred to as ‘looked after children’ and they are children who are in the care of a Local Authority.)*
- ii Children with siblings who will still be attending the preferred school at the time of their admission. Siblings (brothers or sisters) are considered to be those children who live at the same address and either:*
 - have one or both natural parents in common*
 - are related by a parent’s marriage*
 - are adopted or are fostered*
- iii Children on roll at a designated Primary School. (Mount Charles, Sandy Hill, St Mewan, Pondhu, Charlestown, Mevagissey, Carclaze, Bishop Bronescombe, Luxulyan)*
- iv Children who live closest to the school. Distance will be measured by a straight line measurement from home to the front gate. (Distances - Home to school distances used for tie-breaking will be measured by a straight-line measurement as determined by CAPITA One (formerly known as Education Management System or EMS) and supported by the CSA’s Geographical Information System (dataMap). Measurements will be between your home address using Ordnance Survey’s Point Dataset (usually the centre of the main building of the property) and the main gate of the school (as determined by the CSA). Distances used to determine nearest school with room (ie where it is not possible to offer a place at a preferred school) and for establishing transport entitlements will be measured by the nearest available route as determined by the CSAs Geographical Information System (dataMap).*
- v Children of staff at the school:*
 - a where the member of staff has been employed at the school for two or more years at the time at which the application to the school is made; and/or*
 - b the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.*
- vi Children with an unequivocal professional recommendation, usually from a doctor or educational psychologist that non-placement at the preferred school would cause harm to the child and that placement at the preferred school is essential. Such recommendations must be made in writing and must give full supporting reasons.*

vii Other children.

17. Criterion ii identifies siblings at the 'preferred school'; although I presume this to be the academy, a parent might think it means a designated school mentioned elsewhere. The criterion is therefore not clear and could be confusing.

18. Criterion iv is even more confusing; children who live closest to the school, I take to mean children who do not have siblings as in (ii) above nor attend a designated school in (iii) will then be prioritised according to distance from home to school. The paragraph refers however to "*Distances used to determine nearest school with room (ie where it is not possible to offer a place at a preferred school)*". As an oversubscription criterion placed at number iv out of vii and referring to other schools it does not make any sense as part of the school's arrangements. It is not clear how this category of pupils differs from vii, other children. It is not clear how a parent would know whether their child met criterion iv children closest to the school or criterion vi other children. This may be the criterion the school identifies as needing to be changed; as drafted it is not clear.

19. Once the school has applied its fourth criterion it is not clear how any further criteria could be applied. Children with medical or social needs that would meet the description in criterion vi *Children with an unequivocal professional recommendation, usually from a doctor or educational psychologist* would seem to be given no actual priority as all children will have already been allocated a place against the distance criterion iv.

Tie Breaker

20. Paragraph 1.8 of the Code says "*Admission arrangements must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.*"

21. There is no tie breaker for the criteria other than criterion iv. There is, for example, no way to decide which pupils from the designated schools should be admitted if there are not places for all who have applied.

Conclusion

22. I find these arrangements have incorporated general academy admission requirements and parts of the LA's composite prospectus and do not describe the process by which places are allocated at the school in the clear manner required by the Code. I find these arrangements do not comply with the paragraph 14 of the Code.

23. In addition there are omissions, for example a PAN and clear statements about pupils with special educational needs which mean that the arrangements are in breach of the Code.

Determination

24. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Penrice Academy.

25. 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: 17 July 2014

Signed:

Schools Adjudicator: Miss Jill Pullen