

DETERMINATION

Case reference: ADA2372

Objector: The National Union of Teachers

Admission Authority: The governing body of the Maharishi Free School Trust, Lancashire

Date of decision: 20 August 2012

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 the governing body of the Maharishi Free School Trust for admissions in September 2013.

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 make any remaining revisions to 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 the National Union of Teachers (the objector) about the 2013 admission arrangements (the arrangements) for the Maharishi Free School (the School). The objection relates to a number of differences in the arrangements as published on the websites of the School and that of Lancashire County Council (the Council) including the expectation that parents / carers attend one of the School's open days; and the expectation that at least one carer / parent also learn transcendental meditation (TM) at the same time as the child.

Jurisdiction

2. The terms of the Academy agreement between the Maharishi Free School Trust and the Secretary of State for Education require that the admissions policy and arrangements for the School are in accordance with admissions law as it applies to maintained schools. The arrangements were determined by the governing body of the Maharishi Free School Trust which is the admission authority for the School.

3. The objector submitted an objection to these determined arrangements on 28 June 2012. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it 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).

The documents I have considered in reaching my decision include:

- a. the objector's form of objection dated 28 June 2012 and further email correspondence;
- b. the School's written response to the objection dated 13 July 2012;
- c. the response of Lancashire County Council (the Council) to the objection in an email dated 10 July 2012;
- d. a copy of the arrangements accessed from the School's website by the objector on 27 June 2012; and
- e. a copy of the arrangements for the School downloaded by the objector from the Council's website on 21 June 2012.

5. I have also taken into consideration all of the evidence provided previously by the School and by the Council in response to an objection which has been determined on 9 July 2012 and published as ADA 2252.

The Objection

6. The objection relates to the following issues regarding the admission arrangements as published on the websites of the School and the Council at the time the objection was made:

- Issues regarding the School's website:
 - it is not clear whether the published arrangements are the determined arrangements for 2013-14;
 - the School (the admission authority) may not have provided the local authority with an up to date copy of its determined admission arrangements, possibly in breach of paragraph 1.47 of the Code;
 - the expectation that parents / carers attend one of the many open days held throughout the year prior to choosing the School, which implies a condition for an application to be considered, in breach of paragraph 1.9 (a) of the Code;
 - in the preamble of the arrangements, the expectation "that at least one carer / parent also learn TM [transcendental meditation] at the same time as the child" is a breach of the Code at paragraph 1.9 (i) as admission authorities must not "prioritise children on the basis of their own or their parents' past or current hobbies or activities".
- Issues regarding the Council's website:
 - the published arrangements are not the same as those shown

- on the School's website, which could be confusing for parents;
- it is not clear whether the published arrangements are the determined arrangements for 2013-14;
- the local authority has failed to provide "information on how to refer objections to the Schools Adjudicator" as the Council's website makes no reference to this; and that
- that oversubscription criterion (d) gives priority to "pupils transferring from another school that is approved and supported by The International Foundation of Consciousness-based Education" in breach of the Code at paragraph 1.9 (b).

Background

7. The School is a state funded Academy School that is a Free School for children aged from 4 to 16 years, situated in West Lancashire. On 7 September 2011 the School changed its name from the Maharishi School to Maharishi Free School and became an all ability inclusive Academy with a planned capacity of 180 pupils aged 4 to 16 years. Pupils on roll in the predecessor independent school transferred automatically to the Academy on opening.

8. The admission arrangements for the School were the subject of a previous objection which was determined on 9 July 2012. As this objection was referred after the previous determination had been considered but before its publication, I decided that it would be appropriate to consider this objection separately and take into account the information I had gathered when investigating the first objection. The objector was provided with a copy of the determination of 9 July 2012 and invited to assess whether the new objection had already been dealt with in that determination. The objector asked that a further determination should be made.

Consideration of Factors

9. As the School's admission arrangements had previously been subject to an objection, I had met with the School and the Council on 13 June 2012 to consider the issues raised by that previous objection. The School agreed to remove oversubscription criterion (d) which gave priority to "pupils transferring from another school that is approved and supported by The International Foundation of Consciousness-based Education". Following that earlier meeting, the School then amended immediately a number of other aspects on its website in order to comply with the Code, as a variation permitted by paragraph 3.6 of the Code. In particular, to ensure that the arrangements were clear, in compliance with paragraph 1.8 of the Code, the School agreed to ensure that the year to which the arrangements apply was included in the title of the revised admission arrangements. Consequently the admission policy published on the Council's website by the time this objection had been referred was not the same as that shown on the School's website.

10. The School maintains that it had provided the Council with a copy of its determined admission arrangements by the required deadline. The fact that the arrangements were found on the Council's website supports the School's

statement that it did provide its arrangements as required by the Code.

11. In the admissions policy published on the School's website at the time of this objection, the School made explicit the expectation that parents / carers attend one of the many open days held throughout the year prior to choosing the School. As this expectation appears to be an implied condition for an application to be considered, it appears to be in breach of paragraph 1.9 (a) of the Code. As part of the investigation for the earlier objection I had already raised this matter with the School and it had agreed to reconsider the wording to make explicit that attendance at one of the open days is a hope and not a condition.

12. Also as part of the previous determination, I had identified that references to expectations about participation in TM appeared to be conditional and therefore contrary to the Code at paragraph 1.9 (a). The objector identified that these references might also be a breach of the Code at paragraph 1.9 (i) as admission authorities must not "prioritise children on the basis of their own or their parents' past or current hobbies or activities". As a result of the investigation into the previous objection, the School agreed to amend its website so that reference to the hope that pupils will participate in TM would be located in an information area about the School and not in the admissions policy nor in the oversubscription criteria. In addition, the School was made aware that it cannot require that a parent / carer learns or participates in TM. Although the admissions section of the School's website has been edited, the wording in the information section that refers to "instruction in TM....forms part of the admission procedure.." has yet to be amended.

13. In the determination of 9 July 2012, I identified a number of other aspects of the admission arrangements that appeared not to comply with the requirements relating to admission arrangements, and I used my powers under s88I of the Act to review the arrangements as a whole for full compliance with the Code.

14. On the differences between the School's and the Council's websites, it is a matter of concern that a prospective parent looking at one and then the other site may have been confused by the differences in the arrangements. I am satisfied that as soon as the School became aware of some of the unlawful aspects of its arrangements it sought to rectify matters as quickly as possible. The Council did not make those changes immediately as there were still aspects of the arrangements for which it awaited the publication of the earlier determination.

15. My jurisdiction is to consider an admission authority's determined admission arrangements and therefore I am not commenting on the alleged failure of the Council to publish on its website information about how to refer objections to the Schools Adjudicator.

Conclusion

16. Taking into account all the information available to me, I have reached the following conclusions in relation to this objection: the published arrangements

did not show the year to which they apply; the wording in the published arrangements concerning attendance at an open day contravened the Code; and the reference to learning TM also contravened the Code. On these three matters I therefore uphold the objection. However, as the School had provided the Council with a copy of its determined arrangements, I do not uphold this part of the objection.

17. As most of the objector's concerns had already been brought to the attention of the School by the time this objection was lodged, the School had already addressed several of the issues raised during the investigation of the previous objection. Paragraph 3.6 of the Code details that such revisions can be made immediately by the admission authority as permitted variations in order to comply with mandatory requirements of the Code. In particular, the School had removed the oversubscription criterion giving priority to pupils transferring from a school that is approved and supported by The International Foundation of Consciousness-based Education. Likewise, it had amended the title of the determined arrangements to ensure the admission year to which they apply was clearly identified as 2013-14. The expectation which appeared to be conditional regarding participation in transcendental meditation has now been moved from the arrangements published on both the School's and the Council's websites, but the School still needs to check that other sections of its website are amended as necessary. The School has now adjusted the wording regarding attendance at an open day so that it does not appear to be a condition for a place at the School.

17. I have concluded that at the time the objection was lodged there were some aspects of the School's admission arrangements as shown on the School's website which did not comply with the Code and therefore I should partially uphold the objection.

18. However, whether or not the local authority met the requirements of the Code is not a matter for which the School can be held accountable and, as such, is beyond the scope of this objection about the 2013 admission arrangements for the School.

Determination

19. 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 governing body of the Maharishi Free School Trust for admissions in September 2013.

20. 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 make any remaining revisions to its admission arrangements as quickly as possible.

Dated: 20 August 2012

Signed:

Schools Adjudicator: Cecilia Galloway