



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA2813

**Objector:** The Fair Admissions Campaign

**Admission Authority:** The academy trust for Kings School, Portslade, Brighton

**Date of decision:** 28 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 the academy trust of Kings School, the admission authority for the school, for admissions in September 2015.**

**I have also considered the arrangements as a whole in accordance with section 88I(5) of the Act and I determine that these do not conform with the requirements relating to admission arrangements.**

**By virtue of section 88K(2) of the Act 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 Objection**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator by the Fair Admissions Campaign, the objector, about the admission arrangements (the arrangements) for September 2015 for Kings School (the school), an academy school for students aged 11 to 18 years. The objection is that: the arrangements for admission to the school in September 2015 have either not yet been determined or are not yet published on the school's website; "regular attendance" is not defined in the oversubscription criteria; and the supplementary information form (SIF) asks for the child's gender and for details of both 'parents/carers'.

### **Jurisdiction**

2. The terms of the academy agreement between the Russell Education Trust (the 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 trust which is the admission authority for the school, on 15 July 2014, on that basis.

3. In this case, the objector submitted the objection to these determined arrangements for 2015 on 30 June 2014 and 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 have also used my power under section 88I of the Act to consider the arrangements as a whole.

### **Procedure**

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

5. The documents I have considered in reaching my decision include:

- the objection dated 30 June 2014;
- the school's response dated 8 September 2014;
- the response from Brighton and Hove City Council, the local authority, (the LA), dated 20 August 2014;
- minutes of the meeting of the Faith, Worship and Community Committee held on 21 May 2014, at which it was noted that there had been no responses to the consultation and the arrangements for 2015 were recommended to the full governing body;
- minutes of the meeting of the full governing body held on 15 July 2014 at which the recommendation to determine the arrangements for admission to the school in September 2015 was agreed;
- a copy of the determined arrangements for 2015;
- the funding agreement dated 30 August 2013; and
- the LA's composite prospectus for admission to secondary schools in 2015.

### **The objection**

6. The objection has three aspects and the objector has cited the relevant paragraphs of the Code which are said to have been contravened.

- The 2015 arrangements for admission to the school in September 2015 have either not yet been determined (paragraph 1.46) or are not yet published on the school's website, (paragraph 1.47).
- The term "regular attendance" has not been defined in the oversubscription criteria, (paragraphs 1.8, 1.37 and 14).
- The SIF asks for the child's gender and details about both parents/carers, (paragraph 2.4).

## Other Matters

7. Having reviewed the arrangements as a whole for admission to the school in September 2015, I considered matters which may contravene the Code. These include the definition of looked after children; the requirement for a map to illustrate criteria 5ii and 6ii; and the fairness of the method of measuring distance as stated in criterion 5iii.

## Background

8. King's is an ecumenical Christian Free School for students aged 11 to 18 years that welcomes applicants from Anglican and other mainstream Christian churches. It is one of a number of schools within the multi-academy Russell Education Trust.

9. The school opened to students on 4 September 2013 on a temporary site in Portslade and the trust is working with the Education Funding Agency to find a permanent site that will eventually accommodate 1,050 students. The published admissions number (PAN) is 150. There are plans to open a new sixth form in September 2018.

10. Information on the school's website states, "*The school will be inclusive, will meet the individual needs of all learners and will be based on the tenets and beliefs of the Church of England. It will, through its admissions, promote understanding among students of all mainstream Christian churches.*" The funding agreement states, "4A. King's School Academy is a Christian Academy. The relevant faith body [i.e. the faith body involved in sponsoring the Academy or represented on the board of Directors] is 'Churches Together in England and Wales.'"

*Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements"*

11. When I consulted this body I was advised that it does not provide guidance on admissions to individual schools. The head teacher explained in an email dated 6 October 2014 that ultimate responsibility for the admissions policy lies with the trust, "*King's School is part of the Russell Education Trust. Admissions Policies in all RET schools are advised by the Trust in response to their supplemental agreements and the local conditions leading to Approval by the DfE. The Admissions Policy is the written advice of the Trust to the Local Governing Body. The school can only implement the Admission Policy with the permission of RET.*" The school is currently discussing the matter with the Department for Education.

## Consideration of Factors

12. I will consider each part of the objection in turn against the requirements set out in the Code. In the first aspect the objector asserts that either it is the case that the arrangements for admission to the school in 2015 have not been determined as required by paragraph 1.46 of the Code; or if they have, they have not yet been published as required by paragraph 1.47 of the Code.

13. In its response, the school said that the consultation about the arrangements for 2015 took place between 28 December 2013 and 28 February 2014 and was published on the school's website, where it remains accessible via a link, together with the outcome. Following the closure of the consultation period issues were discussed and the arrangements for admission to the school in September 2015 were determined by the relevant governors' committees that met on 21 May 2014 and 15 July 2014.

14. From the evidence that has been provided I can see that there was a consultation within the timeframe set out in the Code. Minutes of the Faith, Worship and Community Committee held in May 2014 indicate that there were no responses to the consultation; and that the arrangements for 2015 were recommended to the governing body. However, this was after the date by which the arrangements should have been determined. Paragraph 1.46 of the Code sets out the requirement that, "*All admission authorities **must** determine admission arrangements by 15 April every year .....*" The minutes of the meeting of the governing body show that the arrangements were not agreed until 15 July 2014 and therefore this requirement was not met and for this reason I uphold this part of the objection.

15. With regard to the timely publication of the arrangements on the school's website, paragraph 1.47 of the Code says, "*Once admission authorities have determined their admission arrangements, they **must** publish a copy of the determined arrangements on their website...*" The school says it regrets that while the text of the policy was updated with the agreed changes, the title of the arrangements on the school's website still referred to 2014 but this has now been corrected. At the time the objection was submitted parents would therefore not have been able to locate a set of arrangements for admission in 2015 on the school's website and for this reason I uphold this part of the objection.

16. In the second part, the objector contends that "regular attendance" is not defined in the oversubscription criteria and this contravenes paragraphs 1.8, 14 and 1.37 of the Code. The school has responded saying that regular attendance has been clearly defined on the Supplementary Information Form and was added for the 2015 arrangements.

17. The LA provided a copy of its composite prospectus for 2015 saying that unfortunately the prospectus includes the wrong version of the school's admission arrangements which were sent by the outgoing head teacher in error. It says that the correct version of the arrangements has since been published on the LA's website and the amended policy refers to fortnightly rather than to regular attendance.

18. The school said in an email dated 8 September, "*Regular attendance has been clearly defined on the Supplementary Information Form. For clarity this was added to the amended 2015 policy when it was submitted to the Local Authority after the consultation.*" The notes for the 2015 arrangements state, "*Regular attendance is defined as fortnightly attendance at a Church.....for a period of at least two years at the closing date for applications.....*" The arrangements for 2014 were not sufficiently clear but the consultation version of the arrangements for 2015 published on the school's website included this clarification about the definition of regular

attendance and the arrangements that have been determined for 2015 do not contravene the Code. As there has been no breach of the requirements of the Code in this matter I do not uphold this part of the objection.

19. In the final aspect, the objector points out that as the SIF asks for the child's gender and for both parents'/carers' details, this contravenes paragraph 2.4 of the Code. In its response the school says that the Code does not prohibit including this information on the SIF and the LA provides this information from the common application form (CAF). The school says it is helpful to have this when writing to parents about the outcome of their application to avoid the embarrassment of incorrectly referring to a son or daughter – where the child's gender is not apparent from their forename. Paragraph 2.4 of the Code says that admission authorities, "... **must only use supplementary information forms that request additional information when it has a direct bearing on decisions about oversubscription criteria....**" The school does not, indeed cannot, admit pupils by reference to gender and in any case as the school itself says; the LA provides information about gender from the CAF. There is no necessity for the school to ask for this information and I therefore uphold this part of the objection.

20. Responding to the issue of using the terms "parents" and "carers" on the SIF the school says this is not explicitly prohibited by the Code. There is only one section provided on the SIF and parents and carers can choose whether to complete it with one or two sets of details as it is possible for there to be cases where the parent making the application for the place may not be the one who regularly attends church, but the faith criterion is explicit in that it is the parent or carer's regular attendance that is the qualifier.

21. When I examined the SIF it refers to, "*Parents'/carers' details ...*", but the heading directly beneath says, "*Name & address*" in the singular form. The form then provides space for only one signature, "*Signature of parent/carer*". Paragraph 2.4e of the Code which says that admissions authorities **must not** ask for both parents to sign the form. In my view there has been no breach of this requirement of the Code and I therefore do not uphold this aspect of the objection.

### **Other Matters**

22. I have considered other matters which may contravene the Code. These include the definition of looked after children in criterion 1 which says, "*Children who are looked after or have been looked after by a local authority in accordance with Section 22 of the Children Act 1989.*" The definition of looked after children must also include mention of children who were previously looked after and have been adopted, or became subject to a residence order or special guardianship order, but as currently written parents are unlikely to understand enough about the composition of this group of children and are unlikely to be familiar with the relevant sections of the Children Act. The school has agreed to provide a fuller definition to include previously looked after children and to remove reference to the Children Act replacing the reference with further information for parents.

23. I also noted that criteria 5ii and 6ii refer to grid references but I could find no map to refer to. The school says, there is a clear description of the location “*mid-point of the junction between New Church Road and Richardson Road*” and that the grid references are given in parentheses. However, I wondered how parents who are new to the area might be assisted to understand the information in these criteria. The Code says in paragraph 1.8 that oversubscription criteria **must** be reasonable, clear and objective. The school has confirmed that it will now provide a map on its website with the arrangements.

24. My final concern relates to criterion 6iii which says that for the purposes of measuring distance to a block of flats, “*the ground floor is considered closer than the first and so on*”. If an application from one family was successful on the grounds that they live in a flat on the ground floor, whilst that of another family who live on a higher floor, in the same building (and thus the same distance from the school), was unsuccessful, the school may be open to a challenge through the appeal process, or through a formal objection about the arrangements.

25. When I queried the approach of the school it was explained that the definition of distance had been taken from the definition used in another LA. Having noted the LA’s own definition the school has agreed to change the arrangements which will now state, “*For applicants from the same block of flats, or who live the same distance from the school, random selection by the drawing of lots will be used as a final tie-breaker.*”

## **Conclusion**

26. Having considered the objection against the requirements set out in the Code I have concluded for the reasons given above that in the matters of the determination of the arrangements for admission to the school in 2015 and the request on the SIF for information about the gender of the child, the arrangements are in breach of the Code and I uphold these two parts of the objection. In the matter of the definition of “regular attendance”, which has been defined as fortnightly in the arrangements for 2015; and in the matter of the request for details of both parents on the SIF which refers to parents/carers but asks for one name and address and provides space for only one signature, I do not uphold the objection.

27. I have also considered the arrangements as a whole for admission to the school in September 2015 and have concluded that there are aspects of the arrangements detailed above, that do not comply with the Code.

## **Determination**

28. 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 academy trust of Kings School, the admission authority for the school, for admissions in September 2015.

29. I have also considered the arrangements as a whole in accordance with section 88I(5) of the Act and I determine that these do not conform with the requirements relating to admission arrangements.

30. By virtue of section 88K(2) of the Act 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.

Date: 28 November 2014

Signed:

Schools Adjudicator: Mrs Carol Parsons