

## Determination

**Case reference:** ADA 2609  
**Objector:** A parent  
**Admission Authority:** The Academy Trust for Rugby High School  
**Date of Decision:** 12 June 2014

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for admissions in 2015 determined by the Academy Trust for Rugby High School.**

### **The Referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection was made to the Adjudicator on 1 May 2014 by a parent (the objector) to Rugby High School's (the school) admission arrangements (the arrangements) for 2015. The objection is to the inclusion in the school's arrangements of the oversubscription criterion giving priority to those eligible for the pupil premium. The objector states that it is necessary to request financial information from parents to achieve this priority which is contrary to paragraph 1.9(f) of the School Admissions Code (the Code). The objector further feels that it is unclear, unfair and unreasonable to use the pupil premium to differentiate between applications when the school is oversubscribed.

### **Jurisdiction**

2. The terms of the academy agreement between Rugby High School 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 governing body for the Academy Trust, which is the admissions authority for Rugby High School, on that basis.
3. 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**

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

5. The documents I have considered in reaching my decision include:
  - a. the objector's email of objection of 1 May 2014;
  - b. documentation provided by the school including an explanation of the factors taken into consideration in determining their arrangements, the admission arrangements for 2015, the school's funding agreement, Annexe B of the funding agreement (which relates to admissions) and the variation to the funding agreement agreed on 10 June 2014;
  - c. comments on the objection from Warwickshire County Council, the local authority;
  - d. an extract from the minutes of the meeting of the school's governors when the determination of the arrangements for 2015 was made, 3 April 2014; and
  - e. confirmation from the Education Funding Agency with regard to the amendment to the funding agreement, 10 June 2014.

### **Background and Consideration of Factors**

6. Rugby High School is a grammar school for girls aged 11 - 18. The school became an academy on 1 April 2011. The head teacher explained the reasoning for using the pupil premium as, *'There is a large body of evidence that children from deprived backgrounds do not attain as well or make as much progress as their more privileged peers. This evidence is very well summarised in the DCSF publication 'Deprivation and Education: The evidence on pupils in England, Foundation Stage to Key Stage 4'. The Millennium Cohort Study has established that children from deprived backgrounds have lower vocabulary scores aged 3 than students from more privileged backgrounds. They are less ready for school (George et al. 2007) and have lower standardised scores than children from higher income families on cognitive ability tests at age 5 (Jones and Schoon, 2008). Blanden and Gregg (2004) found that, 'Low income has an independent effect on children's educational outcomes after controlling for measures of family background and child ability. This evidence suggests that the very fact that a child comes from a deprived background is likely to result in him or her doing less well at school and, by extension, in test situations than a peer from a more privileged background. 'The family stress [that deprivation generates] can lead to problems with children's emotional development, self-esteem and educational achievement' (DCSF, 2009) Low self-esteem is also likely to lead to a child from a deprived background being less confident in approaching any kind of formal assessment.'*
7. The objector asserts that the arrangements contravene paragraph 1.9(f) of the Code which specifies that admission authorities **must not**, *'give priority to children according to the occupational, marital, financial or educational status*

*of parents applying.’ Footnote 22 states, ‘Free Schools and Academies may, where their Funding Agreements permit, give priority in admission arrangements to children eligible for Free School Meals (in future, the Pupil Premium).’*

8. The objector also asserts that the arrangements contravene paragraph 1.8 of the code which states, *‘Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child.’*
9. The objector is of the view that the use of the pupil premium as part of the over-subscription criteria is not reasonable, clear or fair and describes the use of pupil premium as:
  - a. unreasonable as two children with the same experience and scores will be treated differently;
  - b. unclear as those in receipt of the pupil premium are to be assessed on a pass mark that is different to other children and this mark is not yet known; and
  - c. unfair as children in receipt of the pupil premium will be advantaged.
10. The minutes of the meeting of 3 April 2014 of the governing body of the school indicate that the admission arrangements for 2015 were determined taking into account responses to the consultation held.
11. The previous and current Codes prohibit giving priority to children according to their parents’ financial status but, as indicated above, the current Code permits such priority if an academy school’s funding agreement gives permission in relation to the pupil premium. As the school became an academy prior to the current Code being introduced its funding agreement did not include the necessary permission and needed to be amended in order to allow it to give priority to children eligible for the pupil premium.
12. The school made a request to the Education Funding Agency to amend the existing funding agreement to allow the school to give priority to girls eligible for the pupil premium, but at the point of determination of the school’s arrangements by the governors no such amendment had been made. At the date of the objection no amendment had been completed. The amendment was granted by the Education Funding Agency on 10 June 2014.

13. The objection has been lawfully made under section 88H(2) of the Act and before the time limit of 30 June as specified by regulation 23 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012. I am therefore required by section 88H(4) of the Act to decide whether and (if so) to what extent the objection should be upheld.
14. At the point of determination of the arrangements for 2015 the school's funding agreement did not permit the school to give priority to children eligible for the pupil premium and so the admission arrangements determined for 2015 contravene paragraph 1.9(f) of the Code. Given the contravention of paragraph 1.9(f) I have not considered and make no judgement about the objector's view that the arrangements do not comply with paragraph 1.8 of the Code. The school is now entitled to give priority to girls eligible for the pupil premium as the funding agreement has been amended.

### **Conclusion**

15. The funding agreement for Rugby High School in place at the point of determination did not allow the school to give priority in its admission arrangements to girls eligible for the pupil premium and therefore the school did not comply with the Code in its determined admission arrangements for 2015. I conclude that I must uphold the objection. The funding agreement in place now does allow the school to give priority to girls eligible for the pupil premium.

### **Determination**

16. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for admissions in 2015 determined by the Academy Trust for Rugby High School.

Dated: 12 June 2014

Signed:

Schools Adjudicator: Mrs Deborah Pritchard