

## **DETERMINATION**

**Case reference:** ADA2651

**Admission Authority:** The governing body of West Thurrock Academy, Thurrock

**Date of decision:** 25 July 2014

### **Determination**

**In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of West Thurrock Academy, Thurrock, for 2014 and 2015. I determine that they do conform with the requirements relating to admission arrangements, however, the publication of the arrangements does not conform with requirements.**

**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 referral**

1. On 6 May 2014 the admission arrangements for West Thurrock Academy, (the school) for September 2014, were brought to the attention of the Adjudicator by a parent (the referrer). The referrer was arguing that the school's oversubscription criteria relating to siblings were unfair because they differentiated between siblings who lived in the school's catchment area and those who did not. The referrer also commented on the outcome of the 2014 admissions process for her child and other children.

### **Jurisdiction**

2. This referral was made after 30 June 2013 the date by which objections to the 2014 arrangements could be considered by the adjudicator under section 88H(2) of the School Standards and Framework Act 1998 (the Act). However, the adjudicator may consider determined arrangements that come to his attention by other means under section 88I(5) of the Act.
3. The school converted from a community school to an academy on 1 August 2013. The school was not therefore its own admission authority on 15 April 2013 the date by which The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations), require all admission authorities to have determined their arrangements for September 2014.

The admission arrangements for the school for September 2014 would have been those determined for community schools by the local authority, Thurrock Council (the LA). The LA confirmed that the admissions arrangements for 2014 had been properly determined.

4. The school's funding agreement applies to all admission arrangements for 2015 onwards and requires the school to act in accordance with all relevant provisions of the School Admissions Code (the Code). While considering the 2014 arrangements I became aware that the 2015 arrangements did not appear to be published as required by paragraph 1.47 of the Code. I therefore considered whether I should also look at the 2015 arrangements.
5. I am satisfied that it is within my jurisdiction under section 88I(5) of the Act to consider the arrangements for the school for 2014 and for 2015.
6. The outcome of the admissions process in the case of individual children is outside of my jurisdiction.

### **Procedure**

7. In considering this matter I have had regard to all relevant legislation and the Code.
8. The documents I have considered in reaching my decision include:
  - a. the referrer's email dated 6 May 2014 and subsequent emails;
  - b. the school's response to the matters raised and supporting documents;
  - c. the LA's response;
  - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
  - f. confirmation of when consultation on the arrangements last took place; and
  - g. a copy of the determined arrangements for admissions in 2014 and 2015.

### **Other Matters**

9. When considering whether it was within my jurisdiction to consider the school's arrangements, I noted that school appeared to be in breach of the requirement to publish admission arrangements as set out in paragraph 1.47 of the Code.

### **Background**

10. West Thurrock Academy converted to academy status on 1 August 2013. It is a two-form entry primary school for children aged 3 to 11 in

Thurrock. The school is near to the Queen Elizabeth II Bridge over the river Thames.

11. When a school converts to an academy after 15 April, the annual determination date by which admissions arrangements must be determined for the following year, it assumes the admission arrangements already determined by the admission authority for that school for that year. For this school the admission authority was the LA. For the subsequent years the academy trust is required to determine and publish the admission arrangements for the school annually as required by the Regulations and set out in paragraph 1.46 of the Code.
12. In order to meet local demand for school places the school took an additional reception class at the request of the local authority in September 2011, 2012 and 2013.

## **Consideration of Factors**

### Sibling Criteria

13. The referrer suggests that all siblings of children attending the school should have greater priority for places at the school than other children living in the catchment area. The oversubscription criteria for September 2014 are summarised as:
  1. Looked after children and previously looked after children;
  2. Special reasons;
  3. Children transferring from partner infant schools (for Year 3 admission only);
  4. Catchment area siblings;
  5. Catchment area children;
  6. Non-catchment area siblings;
  7. Non-catchment area children;
14. The tie-break for categories 4 to 7 is distance with children living closest to the school having priority. In the event of more than one child being entitled to the same place, the place will be offered by a lottery.
15. Paragraph 14 of the Code says that "*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" Included in the information available to parents in the LA's booklet "Primary Admission Information September 2014", which I have taken to be the LA's composite prospectus, there is a definition of siblings. This booklet also explains how distances are measured and how the tie-break will work. On the LA's website there is a list of which

roads are in which catchment area.

16. The definition of siblings in the LA's booklet and on their website is "*brother or sister, half brother or sister, adopted brother or sister, step brother or sister, or child of the parent/carer's partner and who is living as part of the same family unit at the same address*". Elsewhere in the booklet "*long-term foster siblings*" are added to the definition. Although what constitutes "*long-term*" is not defined, this is otherwise a clear and reasonable definition of sibling.
17. I have studied the list of roads used to define the catchment areas for the school and a map of the area. The roads form a coherent area around the school with no part of the catchment area being beyond reasonable walking distance of the school. I am satisfied parents are able to find out whether or not they live in the catchment area from the information on the LA's website.
18. The LA has informed me that the oversubscription criteria used for community and voluntary controlled primary schools have not been the subject of any changes since before the publication of the Code in 2012, save for the addition, as required by the Code, to the criterion relating to looked after children and previously looked after children. There has been no consultation on any proposed changes and no changes have been made.
19. I will now consider the fairness of how siblings are treated within the oversubscription criteria.
20. Using a catchment area as an oversubscription criterion serves two main purposes. First, although places cannot be guaranteed for them, families who live in the catchment area know they have a high priority for places at a local school. Second, catchment areas secure a degree of priority for a place at a school for children who live a long way from schools or where a river or other obstacle limits the accessibility of other schools.
21. If all siblings were given priority over other catchment area children, then some children living in the catchment area could find they have to attend schools farther from their home and that they do not have high priority for any school. What might appear fairer to one group of children could appear less fair to the other. It is necessary to balance the interests of both groups.
22. The LA's website lists catchment areas for 33 of the 39 schools that admit pupils to reception classes. The exceptions are the four Catholic schools, one academy and one free school which is opening in September 2014. One of the 33 schools on the list, one academy, is noted as having changed its criteria for September 2014. I have checked this academy's website which says they no longer use a catchment area. This leaves 32 schools using catchment areas. The academies and free school that do not use catchment areas use proximity as an oversubscription criteria so I am satisfied that all

children are in a high priority group for admission to at least one school based on where they live.

23. I have considered what the alternative schools might be for children living in the West Thurrock catchment area if they could not attend the school. The Thames estuary limits the directions in which parents could look for alternatives. It appears to me that children from this catchment area who are not able to obtain a place at the school have lower priority for places at other schools and could have longer journeys to them. In contrast siblings from outside the catchment area have high priority for places at another school and have more alternative schools available to them.
24. In balancing the interests of siblings from outside the catchment area of the school with children living in the catchment area I have concluded that it is fairer for children living in the catchment area to have priority over siblings from elsewhere.
25. I am therefore satisfied that these criteria for 2104 are reasonable, clear, objective and procedurally fair as required by paragraph 1.8 of the Code. I am also satisfied that the arrangements as a whole satisfy the principles set out in paragraph 14 of the Code.
26. I was provided with a copy of the minutes of the full governing body meeting held on 1 April 2014. These minutes confirm that the governors determined the arrangements for 2015 as required by paragraph 1.46 of the Code. As these arrangements are the same as those for 2014 I am satisfied that they also meet the requirements of the Code.

#### Other Matters

27. The Code sets out how and when all admission authorities and local authorities must publish admission arrangements.
28. 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 offers for places are made).*"
29. On 31 May 2014 the school's website was displaying a message saying that the site was being reviewed, the same message was still on display on 18 July. The governing body's minutes of 1 April 2014 indicate that the website was not operational then. The headteacher referred to problems the school was having with the company providing the website in an email of 23 June 2014.
30. Paragraph 1.47 implies that schools that are their own admission authority must have a website. The school should have had its admission arrangements for 2014 on its website since it became an academy. The 2014 arrangements should remain on the website until

at least 31 July 2014. The determined arrangements for 2015 should also be displayed on the school's website from when they were determined until the end of the offer year.

31. While technical problems may lead to a website being unavailable for a matter of hours or a few days, I do not consider it acceptable for the school to be in breach of this requirement for over three months.
32. Parents and others need to be able to access full details of school admission arrangements easily so they can understand how places will be allocated.

### **Conclusion**

33. In balancing the interests of siblings from outside the catchment area of the school with children living within the catchment area I have concluded that it is fairer for all children living in the catchment area to have priority over siblings from other areas. I am satisfied that the school's admission arrangements for both 2014 and 2015 are compliant with paragraphs 14 and 1.8 of the Code.
34. Paragraph 1.47 of the Code sets out requirements for the publication of admission arrangements; these have not been met.

### **Determination**

35. In accordance with section 88I(5) of the School Standards and Framework Act 1998. I have considered the admission arrangements for West Thurrock Academy for admission in 2014 and 2015. I determine that they do conform with requirements relating to admission arrangements, however, the publication of the arrangements does not conform with the requirements.
36. 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 address the issue as quickly as possible.

Dated: 25 July 2014

Signed:

Schools Adjudicator: Phil Whiffing