Office of the Schools Adjudicator

DETERMINATION

Case reference: **ADA2995**

Objector: **Suffolk County Council**

Admission Authority: **Hartismere School Trust for Hartismere School, Eye, Suffolk**

Date of decision: **19 November 2015**

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 Hartismere School Trust for Hartismere School, Eye, Suffolk.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters which do not conform with the requirements relating to admission arrangements.

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 within two months of the date of this determination.

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 Suffolk County Council (the objector and the local authority), about the admission arrangements (the arrangements) for September 2016 for Hartismere School (the school), an academy secondary school for students aged between 11 and 18. The objection is to matters relating to: a reduction in the published admission number (PAN) without consultation; the arrangements not being on the school's website including the arrangements for admission to year 12 which were also not provided to the local authority; children with a statement of special educational needs or education, health and care plan (EHCP); looked after children; previously looked after children; the priority area; the incorrect naming of a partnership school; the priority for children of staff; siblings; aptitude for music; medical need; distance tie-breaker; random tie-breaker; shared parental responsibility; and the supplementary information form (SIF).

Jurisdiction

2. The terms of the academy agreement between 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 governing body, which is the trust and admission authority for the school, on that basis. The objector submitted its objection to these determined arrangements on 29 June 2015. 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

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:
   i. the objector's form of objection dated 29 June 2015;
   ii. further information from the local authority;
   iii. the school's response to the objection and information on the school's website;
   iv. Suffolk County Council's composite prospectus for parents seeking admission to secondary schools in the area in September 2016;
   v. a copy of the determined arrangements and the school's SIF as provided by the local authority; and
   vi. a copy of amended arrangements that were posted on the school's website in September 2015.

The Objection

5. The aspects of the objection, with references to the relevant paragraphs from the Code in brackets, are listed below.
   i. There was no consultation on the reduction of the PAN from 147 to 140 (1.3).
   ii. The admission arrangements, for year 7 and year 12 and the application form for year 12, were not published on the school's website (1.47).
   iii. The admission arrangements for year 12 were not provided to the local authority (1.47).
   iv. There was no reference to children with a statement of special educational needs or EHCP being allocated a place if the school is named in the statement or plan (1.6).
   v. The definition of looked after children had not been updated in accordance with the Code and this could cause confusion to parents (14 and 1.7).
   vi. The arrangements did not refer to previously looked after children who must have the same highest priority in the oversubscription criteria as looked after children (1.7).

vii. The use of the term '*priority admission area'* was confusing as it suggested that children living in a specific area had priority, but it appeared that priority was given if they attended a named school (14, 1.14 and 1.15).

viii. Long Green Primary School was named as a partnership school, but it changed its name to Wortham Primary School in 2002, therefore the arrangements were unclear (14).

ix. Children of staff were described as forming part of the catchment area of the school and this was not clear (14 and 1.39).

x. The arrangements did not say which staff were included in the oversubscription criteria giving priority for admission to the children of staff which may not be clear and there was no indication on how evidence should be provided to show how an applicant may fulfil this criterion (14 and 1.39).

xi. The arrangements said that, '*It is unlikely that a sibling will be given priority when the other sibling has left year 11…*' the use of the word '*unlikely*' made this unclear for parents (14 and 1.11).

xii. With regard to selection by aptitude:

  i. The policy referred to musical ability rather than aptitude (1.32).
  ii. The use of the word '*reserved*' could have given the impression that places remain empty if there were insufficient applicants under this criterion (1.6 and 14).
  iii. It was unclear how many places are available against this criterion.
  iv. It was not clear how to apply for priority against the music criterion (1.32).
  v. The SIF appeared to require information based on ability not aptitude (1.17 and 1.32a).
  vi. Aptitude tests were partly based on performance which required the child to read music which made this a test of ability and not aptitude and the approach was not clear, fair and objective (1.31 and 1.32a).
  vii. The return date for the SIF was not stated in the policy; the return date provided on the SIF (23 October) was eight days before the closing date for applications for secondary schools (31 October); and it was not clear how parents would know the outcome of the selection process before the closing date (1.32c).

xiii. It was not clear what priority will be given to a child with a medical need, but there was a reference to making it a priority and the references to music aptitude in this context were not clear (14 1.16 and 1.9i).

xiv. The distance tie-breaker did not say how the distance will be measured and from which points (1.13).

xv. The arrangements said that a further tie-breaker of random allocation would be used, but it did not advise parents how this would be carried out and whether it would be carried out by someone independent of the school (1.8).

xvi. The arrangements said that the '*home address will be considered to be the residence where the child spends at least three nights of the school week each week'* however, many children have a rolling multi-week arrangement which cannot be split in this manner (14).

Other Matters

6. In the course of considering the objection, I reviewed the arrangements as a whole. The arrangements may not conform with the Code in the following matters:
    i. the priority order of the oversubscription criteria appear unclear (14, 1.6 and 1.8);
    ii. the arrangements may not be clear with regard to children who are twins or siblings from multiple births (14); and
    iii. for year 12 there appeared to be no oversubscription criteria; the application form requests information that may not be permitted by the Code; and the information available suggests that references are requested and interviews held (1.7, 2.4,1.9).

Background

7. Hartismere School is the only secondary school in the town of Eye. It is a specialist music and sports college. The school converted to become an academy from September 2010. The previous school had been judged to be outstanding by Ofsted; when the school was inspected again in November 2014 it was judged to be outstanding in all areas.

8. The local authority explained that in previous years it has made suggestions on admission arrangements for all own admission authorities in Suffolk where it believed that the arrangements did not comply with the Code. In 2014 the local authority raised similar matters to the ones in this objection with the school for the arrangements for 2015 in response to its consultation, but this was not followed up by the local authority. The local authority further explained that it had "*tightened up its procedures*" in 2015 in response to the Annual Report of the Chief Schools Adjudicator for England which drew attention to paragraph 3.2 of the Code which says, "*Local authorities **must** refer an objection to the Schools Adjudicator if they are of the view or suspect that the admission arrangements that have been determined by other admission authorities are unlawful."*

9. The school did not consult on its arrangements for 2016 and the local authority said that it focused its time on those who had. It was 18 June 2015 when the local authority emailed the school and thanked the school for providing a copy of its determined arrangements. It also brought the school's attention to matters which it felt did not meet the requirements of the Code and asked that these should be considered with a response by 26 June 2015

because of the deadline for objections of 30 June 2015. No response was received and the local authority provided its objection on the arrangements to the Office of the Schools Adjudicator (OSA) on 29 June 2015.

10. The school has chosen not to provide me with any information in response to the objection. The initial response to the request to provide information concluded, "*This doesn't mean that we are not happy to make the changes and we will endeavour to do this within the next working week. But if everyone still wishes to go to adjudication that also is fine with us: no doubt it will make the individuals at the Council feel important. If you are happy for us to make the changes just let us know."*

11. A repeat request was made to the school on my behalf for the information required including the arrangements, evidence of determination by the trust and to enable me to take the school's views into account in considering the lawfully made objection to its arrangements in the determination the Act requires me to make. The school wrote that the adjudicator's decision on the objection should be written, "*on the basis we accept all the points and get on with it."* I then reminded the school of its duties under Schedule 1 of regulation 25 of the School Admissions Regulations 2012 and the legally binding nature of a determination made by an adjudicator and asked for confirmation from the trust that it wished me to go ahead with no information provided by the school.

12. The school responded and, as requested by the school, I include the response in full:
" 'Adjudicator',
Our response follows:
All the figures and details you have asked for remain as previously given.
All the array of exceptionally minor changes suggested with the normal rudeness and disrespect by the LA have been implemented without exception and approved by Governors.
Our last response is that you and the LA have wasted our time with nonsense and have lost our respect.
You are wasting tax payers money. If you do have to publish your 'findings' we are expressly asking that you include our comments as they are provided above without alteration or other attempts at disimilation (sic)*.*
James McAtear, MSc MA MEd MPhil PGCE NPQH PSQI Headmaster at Hartismere, National Leader in Education"

No *"figures and details*," arrangements or amended arrangements have been provided to me by the school beyond that written above. A further letter was sent to the chair of governors on 16 September 2015 for confirmation that the trust was content that I make my determination with no input from the school and a response requested by 23 September 2015. I was informed that the chair of governors was going on leave but would respond after her return

which was to be 8 October 2015. I have received no further response.

13. The arrangements were provided to the OSA by the local authority and copied to the school. The arrangements were not on the school's website but, as their accuracy has not been challenged by the school, I have worked on the understanding that they are the determined arrangements. The arrangements include a section with the title, "*Oversubscription*" which is followed by:

    "*A Children in Care will be admitted as the top priority.*

    B In the event of over subscription, applications from within the priority admission area (from the named partner schools and the children of staff members) will be considered first and determined using the following criteria:

    1. *Children with a brother or sister (sibling) attending Hartismere at the time of application with a reasonable expectation they will be attending at the start of the new academic year. Attendance at Hartismere will include attendance at the Sixth Form.*
    2. *Children attending one of the named partner schools who do not have a brother or sister (sibling) attending Hartismere*

    C Applications from children who do not attend a named partner school will be considered if there are still places available and will be determined by the following criteria:

    1. *Children not attending a partner primary school but with a brother or sister (sibling) attending Hartismere at the time of application with a reasonable expectation they will still be attending at the start of the new academic year.*
    2. *In the case of up to 10% of the published admission number children with an aptitude in Music as assessed by a standardised process.*
    3. *Children not attending a partner primary school and without a brother or sister (sibling) attending Hartismere*
    4. *The proximity criteria as described below."*

14. In September 2015 I found amended arrangements on the school's website. The trust is permitted by paragraph 3.6 of the Code to make changes to its determined arrangements to comply with a mandatory requirement of the Code. I have assumed, based on the communications from the school, that these amended arrangements have been agreed by the governing body and so I have taken the amended arrangements into consideration in this determination.

15. In its objection the local authority made reference to specific paragraphs in the Code with which it believed the arrangements did not comply including paragraph 14. Admission arrangements are required to be clear and various paragraphs of the Code state this

mandatory requirement including paragraph 14 which 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*."

Consideration of Factors

16. The first part of the objection is that there was no consultation on the reduction of the PAN from 147 to 140. Paragraph 1.3 of the Code says, "*All admission authorities **must** consult in accordance with paragraph 1.42 below where they propose a decrease to the PAN*." The school has provided me with no information on when the school last consulted or whether it met the requirements of paragraph 1.42. The local authority has said that the school did consult on its arrangements for 2015 but that there was no consultation in 2015 on the reduction in the PAN for 2016. I uphold this part of the objection.

17. The amended arrangements as published on the school's website say that the PAN is 147. The school has reverted to its previous PAN and no further action is needed.

18. The second part of the objection is that the admission arrangements for 2015 and 2016 were not on the school's website at the time the objection was made, with the exception of the application form for year 12. In June 2015 the admission arrangements for the school should have included the policies for admissions for year 7 and year 12 for 2015 and 2016; the SIF; and the application form for external applicants for year 12. 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 school year in which offers for places are made)."* The arrangements were not on the school's website when required. This is the responsibility of the admission authority and it has not been met. I uphold this part of the objection.

19. The amended arrangements were on the website in September 2015 under the tag for '*essential information'*. Under the tag for 'a*dmissions*' the website had a revised SIF and the application form for year 12 but no admission arrangements for year 12. The school still does not comply with the requirements of the Code to publish its admission arrangements for all relevant year groups as those for year 12 are not published.
20. The third part of the objection is that the arrangements for admission to year 12 have not been provided to the local authority as required by paragraph 1.47 above. The full arrangements for admission to year 12 have not been made available on the school's

website or to the local authority when required. I uphold this part of the objection.

21. The fourth part of the objection is that it was not clear that children with a statement of special educational needs or EHCP would be allocated a place at the school if the school were named on their statement or in the EHCP. The arrangements did not provide any information on this. This does not conform with paragraph 1.6 of the Code and I uphold this part of the objection.

22. The amended admission arrangements refer to children with statements of special educational need or EHCP which names the school being admitted under priority A of the oversubscription criteria. This does not comply with the Code as these children are allocated a place before any oversubscription criteria are applied and this is not clear. In addition the arrangements say, "*Children with statements of SEN or an Education, Health and Care Plan naming the school will be admitted, within the scope of the law*." Using the term "*in the scope of the law*" does not add to the meaning and makes the arrangements less clear. Further amendment is required.

23. The fifth part of the objection is that the definition of looked after children had not been updated in line with the Code and this could cause confusion for parents (14 and 1.7). The oversubscription criterion only referred to '*children in care.'* The Code refers to looked after children and provides a definition of looked after children. The wording in the arrangements was not clear or accurate. This does not conform with the Code and I uphold this part of the objection.

24. The amended arrangements now correctly refer to looked after children rather than children in care.

25. The sixth part of the objection is that the arrangements do not refer to previously looked after children who should have the highest priority in the oversubscription criteria along with looked after children. Paragraph 1.7 of the Code says, *"All schools **must** have oversubscription criteria for each 'relevant age group' and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children. Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order)."* The school did not conform with paragraph 1.7 of the Code in this regard and I uphold this part of the objection.

26. The amended arrangements now include previously looked after children. The arrangements on this matter remain insufficiently clear because the inclusion in the oversubscription criteria of children with a statement of special educational need or EHCP

means looked after children and previously looked after children are shown as the second priority in the oversubscription criteria which does not comply with paragraph 1.7 of the Code.

27. The seventh part of the objection is that the use of the term "*priority admission area"* is confusing as it suggests that children must live in a specific area, but it appears that priority is given if they attend a named school. The arrangements say:
"*Priority Admission Area - 'catchment' area*
Our priority admission area is our Partner Primary Schools. This means that pupils attending one of our partner primary schools at the application closing date are considered to 'reside' in our priority admission area." Paragraph 1.14 of the Code permits the use of catchment areas in oversubscription criteria and says, "*Catchment areas **must** be designed so that they are reasonable and clearly defined*." Definition is normally by a map or a description of boundaries. It is not reasonable to describe attending a school as the same as '*residing*' in an area and so the arrangements were not reasonable or clear. I uphold this part of the objection.

28. The amended arrangements refer to children who attend a '*partner primary school'* and these schools are named, but still refer to "*children living in our priority admission area*" and "*pupils who live outside the priority admission area"* when no such area is defined. This remains unclear and needs to be amended further in order to be clear as required by the Code.

29. The eighth part of the objection is that Long Green Primary School was named as a partnership school when it changed its name to Wortham Primary School in 2002. This was therefore unclear and I uphold this part of the objection.

30. The amended arrangements now correctly name Wortham Primary School so no further action is needed.

31. The ninth part of the objection is that children of staff were described as forming part of the catchment area of the school and that this was not clear. The arrangements say, "*In accordance with the new admissions code and concordant government Legislation the children of staff members also form part of the catchment area of the school. As such those children will have will be* (sic) *treated for the purposes of oversubscription in the same manner as children attending a partner primary school who have a sibling on roll at Hartismere*." This was not clear. I uphold this part of the objection.

32. The amended arrangements say that "*In the event of over subscription, **applications from within the priority admission group** (pupils attending a partner primary school and the children of staff members) will be considered first and determined using the following criteria:"* The "*priority admissions group*" is defined as children who attend one of the named schools and children of staff.

The wording is now clearer, but not fully accurate. I refer to this matter further below.

33. The tenth part of the objection is that the arrangements do not say which staff are included in the oversubscription criterion and there is no indication how evidence is provided against this criterion. Children of staff can have priority for places at a school as defined in paragraph 1.39 of the Code. The arrangements did not use any part of this definition and there is no permission in the Code for children of staff except in the circumstances set out in paragraph 1.39. The arrangements did not comply with the Code in this regard and were not clear. It was also not clear how parents considering applying as members of staff for priority for their child have to make this known. No relevant information was requested for this purpose in the SIF or the common application form. I uphold this part of the objection.

34. The amended arrangements refer to the "*the children of staff members who have been employed for 2 years or more or who have been employed to fill a skill shortage also form part of the priority admission group. As such those children will be treated for the purposes of oversubscription in the same manner as children attending a partner primary school who have a sibling on roll at Hartismere."* This uses the criteria permitted by paragraph 1.39 of the Code and addresses that part of the objection.

35. The eleventh part of the objection is that the arrangements say, '*It is unlikely that a sibling will be given priority when the other sibling has left year 11'* and that the use of the word '*unlikely*' makes this unclear to parents. Paragraph 1.11 of the Code requires that the school **must** have a clear definition of sibling or of former sibling if siblings are included in the oversubscription criteria. The arrangements were not clear and I uphold this part of the objection.

36. The amended arrangements say, "*A sibling will not be given priority when the other sibling will have left year 11 by the time the new pupil would be due to start unless that post-16 child has entered Hartismere Sixth Form*." No further action is needed.

37. The twelfth part of the objection relates to the selection of students by aptitude. Paragraph 1.32a) of the Code says, *'Admission authorities **must**: a) ensure that tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned, and not for ability."* In one place the arrangements referred to ability rather than aptitude. The use of the word ability in this context made the arrangements less clear and contrary to the Code as selection cannot be on the basis of ability in the subject.

38. In addition the arrangements say that "*Up to 10% of the published admission number of places will be reserved for children with an aptitude in music.*' The local authority said that the use of the word

'*reserved*' suggests places may remain empty if there are not enough applications to fill under this criterion. Paragraph 1.6 of the Code says, "*If the school is not oversubscribed, all applicants **must** be offered a place."* It is not permitted to reserve places and the terminology used in the arrangements made this unclear.

39. The amended arrangements now say, "*In the case of up to 10% of the published admission number children with an aptitude in Music. (See Supplementary Information Form - Appendix 1)"*

40. As the school had set a PAN of 140 with up to ten per cent potentially selected by aptitude the number of places under this criterion could be 14. The oversubscription criterion did not set a number. The SIF said that *"There are up to 7 places available*." The oversubscription criterion for selection by aptitude and the SIF were not consistent so the arrangements were unclear.

41. The amended arrangements now say, "*Up to 10% of the published admission number of places will be offered to children with an aptitude in music as assessed by the standardization process*." The SIF says that specialist places up to 10% of the PAN are available so the two documents are now consistent.

42. The objector says that it is not clear how to apply for priority against the criterion for aptitude. The oversubscription criterion said, "*In the case of up to 10% of the published admission number children with an aptitude in Music as assessed by a standardised process."* There was no further information on this on the website. The SIF provided further information, but this was not available on the school's website at the time of the objection. The lack of relevant information made the arrangements unclear. A full copy of all the arrangements **must** be available on the school's website.

43. The SIF is designed only for those who wish to apply for priority for a place based on aptitude in music. It asked for information on music qualifications which the objector says is a measure of ability rather than aptitude. The SIF described a process which accepted qualifications to pass what was called the preliminary assessment. There was an exercise for those without qualifications which was described. For those who had music qualifications or who passed the preliminary assessment then there was a final assessment. The objector says that it is unfair that those without qualifications should have to undertake an additional test and that a measure of ability is being used here when paragraph 1.32a requires that "*tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned, and not for ability."*

44. The final assessment had two parts which were described as aural and performance. The SIF explained, "*Children who go through to the final assessment will be given a mark for each part of the process and places will be allocated to the 7 applicants with the*

highest total scores." The local authority in its objection said, "*a child with high graded ability must be likely to score higher on performance and it also presupposes the child reads music (as they are required to provide a music score of their part). We find it difficult to see how a points' based score for a performance can be anything other than subjective and/or a test of ability, so none of the conditions appear to fulfil the requirement to be fair, clear and objective."*

45. There is evidence that only part of the process was designed to try to assess aptitude rather than ability, but that children who had already attained musical qualifications and provided this as evidence of their ability would have an advantage and so it did not conform to the Code.

46. There was no information in the policy by which date the SIF had to be returned. The SIF provided a return date of 23 October. The school has chosen to select by aptitude. Paragraph 1.32c requires that admission authorities **must** "*take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on **31 October** so as to allow parents time to make an informed choice of school - while making clear that this does not equate to a guarantee of a selective place."* If the SIF had to be returned by 23 October and then the child tested, and no dates were provided for the tests, then it would be unlikely that parents would be informed of the outcome by the 31 October. Furthermore the SIF asked for confirmation that parents had included the school in the list of schools for which they had applied. This implies that the form would not be considered until after applications have been made. I uphold this part of the objection as the arrangements relating to aptitude were not clear and did not meet the requirements of the Code for assessment of aptitude.

47. The amended SIF has removed the references to qualifications and has changed the process which meets the concerns on testing for ability. It also has a closing date for return of 31 October which would make it impossible for the parents to know the outcome of the test by 31 October and so still does not comply with paragraph 1.32c. Further amendment is required.

48. The thirteenth part of the objection is that it is not clear what priority will be given to a child with a medical need. The arrangements say "*Exceptional medical circumstances supported by written medical evidence may override the above."* I must assume that '*above*' refers to the oversubscription criteria, but this is not clear. Paragraph 1.16 of the Code permits an admission authority to use medical need in its oversubscription criteria. The arrangements did not do this as medical need was not part of the oversubscription criteria. It is not permitted for medical need to '*override'* a statement of educational need or an EHCP; or to be given a higher priority than a looked after child or a previously looked after child. The

arrangements did not comply with the Code in its use of medical need as part of its arrangements.

49. The arrangements continued to say, "*Evidence pertaining to the need of the child to attend Hartismere School because of an aptitude or interest in our specialism will not be considered under these (Medical) criteria: however, such evidence must be included with the application form*." It is not clear what was meant by this statement or the school's arrangements in this regard. I uphold this part of the objection.

50. The amended arrangements clarify that a child with a medical need will not be given priority over a looked after child or a previously looked after child but it remains unclear, however, with regards to a child with a statement of educational needs or EHCP. Medical need is still not included with the oversubscription criteria. There also remains a lack of clarity in the relationship between applying for a specialist place in music and medical need. Further amendment is required.

51. The fourteenth part of the objection is that the distance tie-breaker does not say how the distance will be measured and from which points. The arrangements say, "*In Category C above by the proximity of the child's home to Hartismere School: measuring the distance by a straight line ("as the crow flies"). All straight line distances are calculated electronically with those living nearest to the school being given priority. Apartments in the same block will be treated equally. If after applying the distance tie-breaker there are more applications than places available a further tie-breaker of Random Allocation will be used for the applications from this block."* Paragraph 1.13 of the Code says, "*Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the 'home' address will be determined and the point in the school from which all distances are measured."* I find the description of a straight line "*calculated electronically*" sufficient to meet the Code. The arrangements did not make it clear what the point was in the school from which all distances were measured and what point in the home, such as the front door, would be used in the measurement and so did not conform with the Code; I uphold this part of the objection.

52. The amended arrangements have not addressed this matter.

53. The fifteenth part of the objection is that the arrangements say that a further tie-breaker of random allocation will be used, but it doesn't advise parents how it will take place or whether it will be carried out by someone independent of the school. Paragraph 1.8 of the Code requires that *"Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated."* Random allocation is not prohibited by the Code as a tie-breaker but paragraph 1.35 requires

that, "*random allocation process **must** be supervised by someone independent of the school."* The arrangements did not make it clear that random allocation as a tie-breaker would be applied in this way. I uphold this part of the objection.

54. The amended arrangements say that "***Random Allocation will be carried out** in compliance with Section 1.35 of the School Admissions Code 2014) will be used for the applications from this category."* This is not a clear sentence as parents should not have to look at the Code in order to find out how random allocation would take place. Further amendment is required.

55. The sixteenth part of the objection is that the arrangements say that the '*home address will be considered to be the residence where the child spends at least three nights of the school week each week'* but the local authority describes how many children have a rolling multi-week arrangement "*which cannot be split in this simplistic manner"* and therefore this does not meet the requirement of paragraph 14 to be clear. The local authority provided examples, "*two common methods we have seen include (i) 1 week with mother followed by 1 week with father, or (ii) week 1 – 3 nights with mother and 2 nights with father, followed by week 2 – 2 nights with mother and 3 nights with father. In both cases the result is an equal 5 nights with each parent in 10 days, but neither address is the "home address" under the stated criteria."* The arrangements were not sufficiently clear and I uphold this part of the objection.

56. The amended arrangements have not addressed this matter and further action is required.

Other matters

57. Paragraph 1.6 of the Code says, "*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 arrangements have a section with the title "*oversubscription*." There is then a list marked A, B, C and D with sub-sections. There is no explanation that this is a priority order for oversubscription criteria. The lack of clarity is exacerbated by the introduction of other criteria that give priority, such as that for medical need, elsewhere in the document and including the statement under C that these children "*will be considered first*." The arrangements are unclear in that the priority order is unclear and so do not comply with paragraphs 14, 1.6 and 1.8 of the Code.

58. The arrangements say, *"Multiple births: The School's policy is not to separate multiple births."* It is not clear what this means. This does not comply with the requirement of the Code to be clear.

59. The school admits external students to year 12. No arrangements for admission to year 12, except the application form, are available and so there are no oversubscription criteria and this does not conform with the Code and paragraph 1.7 which says, "*All schools **must** have oversubscription criteria for each 'relevant age group*."

60. Paragraph 1.9 of the Code says, "*It is for admission authorities to formulate their admission arrangements, but they **must not**:*
a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements;
b) take into account any previous schools attended, unless it is a named feeder school;
take account of reports from previous schools about children's past g) behaviour, attendance, attitude or achievement, or that of any other children in the family;
m) interview children or parents. In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this meeting cannot form part of the decision making process on whether to offer a place."

61. The application form for year 12 for external students asks for the names of previous schools (including primary schools), reasons for choosing subjects, career interests, interest in applying for Oxford or Cambridge Universities and refers to references and interviews. The information on the school's website says, "*All applicants are interviewed by sixth form staff about their attitudes to study, subject choices and future plans. Decisions on entry are confirmed in writing after the interview*." There is therefore considerable evidence that the school does not conform with the Code in the information it requests and how it uses that information to decide admissions; and that it uses references and interviews to decide how to offer places when these matters are prohibited by the Code. The school does not comply with the Code in its arrangements for admission to year 12.

62. As no other information is available about the arrangements for year 12 it is possible that there are other matters that do not conform with the Code.

Conclusion

63. The arrangements for the school were not publicly available; do not meet the requirements of the Code to be clear; and do not conform with the Code as detailed above. I uphold the objection.

64. I have also considered the arrangements as a whole for admission to the school in September 2016 and have concluded that several aspects of the arrangements as detailed above do not comply with the Code.

65. With regard to all matters of non-compliance the Code requires the admission authority to revise its admission arrangements within two months of the date of this determination. Some matters have already been remedied and I have indicated where no further action is needed.

Determination

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

67. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters which do not conform with the requirements relating to admission arrangements.

68. 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 within two months of the date of this determination.

Dated: 19 November 2015

Signed:

Schools Adjudicator: Mrs Deborah Pritchard