



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2877

Objector: A parent

Admission Authority: The Academy Trust for Rugby High School

Date of decision: 15 September 2015

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 for Rugby High School, Warwickshire.

I have also considered the arrangements in accordance with section 88I(5). I determine that they 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.

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 a parent, (the objector), about the admission arrangements for September 2016 (the arrangements) for Rugby High School (the school), a selective academy school for girls aged 11 to 18. The objection is to several aspects of the arrangements which are detailed below.

Jurisdiction

2. The terms of the academy agreement between the 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 on behalf of the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 18 April 2015.

3. The objector asked to remain anonymous, and provided both name and address to the adjudicator as required by regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements)(England) Regulations 2012 (the Regulations).
4. The school was subject to a determination by the Office of the Schools Adjudicator in June 2014. Regulation 22 says that an objection cannot be referred to the adjudicator raising the same or substantially the same issues within two years of a decision by the adjudicator. The objection considered in June 2014 concerned the priority given to girls eligible for the pupil premium. This is not one of the issues raised in this objection.
5. 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 and I have used my power under section 88I(5) of the Act to consider the arrangements as a whole.

Procedure

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
7. The documents I have considered in reaching my decision include:
 - i. the objector's form of objection dated 18 April 2015 and subsequent correspondence;
 - ii. the school's response to the objection and supporting documents dated 3 June 2015 and subsequent correspondence;
 - iii. the Warwickshire County Council's, the local authority (the LA) composite prospectus for parents seeking admission to schools in the area in September 2015;
 - iv. a map of the area identifying relevant schools;
 - v. confirmation of when consultation on the arrangements last took place;
 - vi. a copy of the minutes of the meeting at which the arrangements were determined; and
 - vii. a copy of the determined arrangements.

The Objection

8. The objector believed that the school's arrangements did not comply with paragraphs 1.13, 1.8, 1.31, 2.7, 2.14 and 2.17 of the Code. The objection was set out under twelve headings:

- i. Admissions responsibilities;
- ii. Selection Tests;
- iii. Weightings;
- iv. Photographs;
- v. Out of Year education;
- vi. Illness;
- vii. Residency Rules;
- viii. Previous Address;
- ix. Withdrawing Places;
- x. Year 10 Admissions;
- xi. Special Arrangements; and
- xii. Admission Arrangements for Years 12 and 13.

Other Matters

9. The definition of previously looked after children used in the arrangements did not appear to conform to that in paragraph 1.7 of the Code and the associated footnotes.
10. The description of the Eastern Area of Warwickshire, the priority circle and the relationship between them appeared to me to be unclear. Paragraph 14 of the Code requires the arrangements to be clear.
11. There appeared to be no tie-breaker in the arrangements that would decide between two applicants that could not otherwise be separated as required by paragraph 1.8 of the Code.
12. Aspects of the arrangements did not appear to be clear with a number of terms are introduced which are not defined and are used interchangeably with other terms. Paragraph 14 of the Code requires arrangements to be clear.
13. Paragraph 2.14 of the Code sets out the requirements for the waiting list to be held until 31 December in the admission year. It was not clear whether the way in which the waiting list is described in the arrangements complied with those requirements.
14. The admission arrangements for Year 12 may not comply with paragraphs 2.4 and 2.6 of the Code.

Background

15. The school became an academy in April 2011; it has a published admission number (PAN) of 120 in Year 7 for September 2016 and 90 for girls joining the school in Year 12. It is part of a consortium of selective schools in Warwickshire and Birmingham that use a common admissions test which will be sat in September 2015 for entry to Year 7 in September 2016.
16. In order to be admitted to the school, a girl must meet the standard for

entry which is called the 'Automatic Qualifying Score'. The school also uses two geographic areas to prioritise its applicants. The first is the 'Eastern Area of Warwickshire', this is defined as Rugby plus 36 other parishes. The second is a 'priority circle', which is centred on the Rugby water tower and has a radius of ten miles. A map of the area can be found on the LA's website, the Eastern Area is entirely encompassed by the priority circle.

17. After any places have been allocated to girls who meet the standard and have a statement of special educational needs or an Education Health and Care Plan (EHCP), priority is given to looked after and previously looked after girls who achieve the automatic qualifying score. These are followed by up to 10 girls who live within the priority circle and are in receipt of the pupil premium whose scores in the test are between one and ten marks below the automatic qualifying score.
18. The arrangements then say that 50 per cent of remaining places are allocated to girls living within the eastern area of Warwickshire, and the residual 50 per cent of places will be allocated to girls living within the priority circle and then other girls. The arrangements then set out two more oversubscription criteria for children living in the priority circle within the "waiting list range" and for other children who achieve the automatic qualifying score or above. In each criterion highest priority is given to girls who scored highest in the test. If it is necessary to differentiate between two girls with the same score, the girl living closest to the school has priority.

Consideration of Factors

Admissions Responsibilities

19. The arrangements say "*Formal responsibility for determining student admissions rests with the school's governors. However in discharging these responsibilities in relation to Year 7 the governors have engaged Warwickshire Admission Services to operate the process on the school's behalf.*" The objector stated this was not clear, but did not link this to any specific section of the Code although paragraph 14 which the objector listed does require arrangements to be clear. Paragraph 2.7 was also listed by the objector, it says "*Admission authorities **must** allocate places on the basis of their determined admission arrangements only, and a decision to offer or refuse admission **must not** be made by one individual in an admission authority. Where the school is its own admission authority the whole governing body, or an admissions committee established by the governing body, **must** make such decisions.*" As this paragraph of the Code concerns the process of allocating places and not the arrangements it is not within my jurisdiction.
20. The school has said that for reasons of cost effectiveness and efficiency it chooses to purchase admissions services from Warwickshire County Council, this purchase is made annually.

Academies are free to purchase such services from a local authority, another supplier or to employ their own staff to implement the arrangements determined by the governing body. The draft minutes of the full governing body held on 24 March 2015 confirm that the governing body has discharged its responsibility to determine the arrangements.

21. Paragraph 14 of the Code requires arrangements to be clear. I consider this statement to be clear and to describe a permissible practice and do not uphold this part of the objection.

Selection Tests

22. The selection test used by the school and the other schools in the consortium are provided by the University of Durham CEM Centre. The test was held on Saturday 12 September 2015, children who are unable to sit the test on this day for religious reasons are able to sit the test on another day which the arrangements say is likely to be Sunday 13 September 2015. If a girl is unable to sit the test on the appointed day through illness the arrangements say an alternative date will be arranged and there are additional test sessions held primarily for families moving into the area.
23. The objector cited paragraph 1.31 of the Code “*Tests for all forms of selection **must** be clear, objective, and give an accurate reflection of the child’s ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test, providing that the test is a true test of aptitude or ability.*” The objector argued that “*The same test is repeatedly used meaning the testing process is compromised as content enters the public domain and is passed on to late sitters. If a child knows content – even one question then the selection cannot give an accurate reflection of the child’s ability or aptitude for late sitters.*”
24. The school maintains that the test is clear and objective and gives an accurate reflection of the child’s ability or aptitude. They have said “*The work of Professor Susan Gathercole and Tracy Packinam Alloway Understanding Working Memory concurs with earlier studies by Cowan which suggest that children have a more restricted working memory than adults. Working memory capacity is really stretched by the kinds of tasks set in the eleven plus e.g. multiplication and division without the aid of a calculator. When you add on top of this the need to complete the paper within the required time (which places a severe restriction on time available for memorisation strategies like covert rehearsal) and the child’s lack of access to other memorisation techniques like repeated writing of the article to be memorised, it is very unlikely that a child could be in a position to remember very much at all.*”
25. The commercial agreement between the school, the LA and CEM prevented me from seeing a copy of previous tests. I have however

looked at the material used to familiarise children with the style of the test. The test consists of two one hour papers covering verbal ability, numerical ability and non-verbal ability. The questions are multiple choice with five or six alternative answers presented to the pupils. The numerical questions include tables of data and the non-verbal questions include complex diagrams. In my view it is unlikely that a child could remember any content that would be helpful to another child who might take the test at a later date and that the tests comply with paragraph 1.31 of the Code. I do not uphold this part of the objection.

26. The arrangements say *“Children moving into East Warwickshire who are over 12 years and not previously tested who are applying for a place (once the new Year 7 have been admitted) will be required to take tests in English, Mathematics and Science arranged by the school. A place will be offered, subject to availability, if the applicant’s performance satisfies the Headteacher that the student’s ability is commensurate with that of the cohort into which she is seeking admission.”* The objector sets out their view that these tests are different to those used to create the waiting list and this did not comply with paragraph 2.14 of the Code which says *“Each admission authority **must** maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.”*

27. Under the heading *“Waiting lists”* the arrangements say *“Places available up to the planned admission number of the school will be offered subject to waiting list order. Vacancies will then be offered in this way. Any child being offered their second or subsequent selective preference will be added to the waiting list of their higher selective preference in accordance with their score and, if appropriate, the order set by the Committee of Reference provided that the scores are within the range of those considered for that school.”* and *“Waiting lists are held until the start of the Spring Term for incoming Year 7 and Year 12 only.”* I do not see how it would be possible to put a child on a waiting list ranked in line with the oversubscription criteria unless they had taken the same test, as the score in the test is used to set priority for places within the oversubscription criteria.

28. In its comments on the objection the school said the situation has not occurred in recent memory, but accepted the objector’s point. It proposed an alteration in its arrangements to address this issue. I therefore uphold this part of the objection. I have other concerns about how the waiting lists are described in the arrangements and will return to this matter later.

Weightings

29. The arrangements say *“Weightings will be applied to the scores achieved in Verbal Reasoning, Non-Verbal Reasoning and Numeracy.”* These weightings are not published in the arrangements. The objector

argued that the weightings must be known before a test is taken otherwise “*weightings can be manipulated to exclude children for various reasons.*” The objector continued to say that a change in weighting two years ago increasing the weight on verbal reasoning disadvantaged children whose first language was not English.

30. I asked the LA what the rationale for the weighting was and if the weightings are fixed before the test is taken. The LA replied “*The committee of reference (ie: the schools) decided to introduce weighting in order to address what they saw as a bias toward the sciences and maths to produce a more rounded cohort, this was done on advice from CEM. The current weighting was agreed by all Warwickshire Grammar schools for 2014 entry onward, it would be their decision when/if this is changed.*”
31. The test provider, CEM has a website on which it says “*Our research shows that male candidates tend to show an advantage in mathematical reasoning while female candidates tend to perform better on verbal questions. Candidates with English as an additional language may be disadvantaged through less exposure to reading in English. Children with Dyslexia may have a specific deficit in reading ability but have intact understanding. Our selection assessments are developed with the aim of minimising the impact of these factors, using a range of strategies to achieve this.*” If the tests achieve this aim, then weighting different parts of them will not disadvantage any groups as the objector suggests.
32. The school strongly refuted any allegation that it attempts to manipulate its intake and quoted data showing an increase in the proportion of its pupils with English as an additional language (EAL). Figures I have found in the Department for Education school performance tables show the school has the fifth highest proportion of children with EAL in Warwickshire at 10.4 percent. Comparing more locally there are 21 schools listed on the DFE schools database within the 10 mile radius priority circle. EAL data is available on 19 of these and the school has the seventh highest proportion of students with EAL among this group.
33. The Code does not prohibit admission authorities from weighting different parts of the test. Paragraph 1.31 only requires that the test is “*a true test of aptitude or ability*” any weighting applied to the different parts of the test does not prevent it from testing ability. I do not uphold this part of the objection.

Photographs

34. The arrangements say “*If your child is sitting a test in a Warwickshire venue and you arrive at the venue without a photograph of your child they will not be able to sit the test on that day and your registration will be considered as late. There will be no exceptions. Should your child be offered a place photos provided with the “fit and well” sheet will be shared with the school for identification purposes.*” The objector says

this is unfair to children who are home tutored as they have no headteacher to sign their photograph.

35. The school has assured me that home educated girls can apply for places and present a photograph signed by a responsible individual drawn from the range of professions acceptable for passport identification purposes. It would be helpful to parents of such girls if this was stated in the arrangements.
36. I cannot accept the objector's view that the requirement to attend the test with a photograph is unfair on children whose parents forget to do so. Certified photographic identity is a requirement in many situations, it is entirely reasonable for the school to ask for it and parents are responsible for complying with what I consider to be a valid requirement. I do not uphold this part of the objection.

Admission of children outside their normal age group

37. The objector says the arrangements concerning the admission of girls not born between the usual dates for admission in September 2016, which are 1 September 2004 and 31 August 2005 do not comply with the Code. In particular the objector finds the following statement in the arrangements to be unacceptable "*Decisions as to whether or not the test results for such students can be used for admission purposes to this school will be taken by the Academy Trust as the Admission Authority.*" The objector argues "*it means they can make up rules as they want.*"
38. The admission of children outside their normal age group is addressed in paragraphs 2.17, 2.17A and 2.17B of the Code. I have considered the full statement on this matter in the arrangements. "*If your son or daughter was born between 01 September 2004 and 31 August 2005 you may apply for them to sit the test for entry in September 2016. Children not born between these dates will only be able to sit the test if they are being educated out of year group (they are being taught in Year 6 for the 2015/16 academic year). Decisions as to whether or not the test results for such students can be used for admission purposes to this school will be taken by the Academy Trust as the Admission Authority.*" I agree with the objector that the reference to "*son or daughter*" is unnecessary as it is a girls' school, however this statement appears to me to comply with the Code in paragraph 2.17 "*Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health.*" Paragraph 2.17 continues "*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*" It is clear to me from the arrangements how parents of children being taught outside their age group can apply for the school. I do not uphold this part of the objection.

39. The process through which an admission authority makes decisions about applications for admission outside the age group referred to in Paragraph 2.17A of the Code is outside of my jurisdiction.

Illness

40. The arrangements say *“If your child is ill on the test day and is unable to sit the test, you must notify either Warwickshire Admissions or The Grammar Schools in Birmingham (depending with whom you have registered for the entrance test) by 4pm on Monday 14 September 2015. A medical note (scanned copy, faxed or hand delivered) must be submitted by noon on Wednesday 16 September for an alternative date to be arranged.”* The objector says this is unreasonable because *“if a child is ill on Saturday a surgery is often closed and many doctors will not provide an appointment before Wednesday 12 noon and it would be impossible to get a medical note within the short timescale.”* The objector continues to say that a doctor may not have the evidence to provide a medical note if they do not see the child when they are ill on the Saturday.
41. The school says that requesting a medical note is protection against fraudulent claims of illness and that this is usual practice for students unable to sit public examinations through illness. I do not consider the school’s requirements to be unreasonable or unfair to any applicant. I do not uphold this part of the objection.

Residency Rules

42. The arrangements include a section on residency requirements. The school says these are to *“ensure that places are allocated to the children of local residents and to prevent parents from seeking to gain advantage by manipulating their address during the application period.”* The objector says these rules are unfair and discriminatory and suggests that scrapping catchment areas would resolve the need to prove where a child lives.
43. The Code permits schools to use a catchment area and in my view it is both reasonable and fair to residents in the catchment area that the school takes steps to prevent people from using an address solely to gain priority for a place at the school. It is also necessary for there to be a fixed date on which the child’s address is used to measure the distance from home to school and so allocate them the correct priority.
44. The objector makes a number of claims about the discriminatory nature and unfairness of the residency rules. I see nothing in the residency rules that would prevent a family who moves house for genuine reasons during the application process to be fairly assessed on the basis of their new address. Nor do I see anything in the residency rules that would prevent a family moving house while the girl is at the school as the objector suggests. The rules appear to me to be clear

and any family planning a move of house will be able to take them into account in deciding the timing of their move.

45. The objector says that the evidence required of an address is unreasonable. The arrangements request

- Council Tax letter or statement for the current financial year; or
- Current Housing Benefit letter; or
- Utility bill, bank statement, or car insurance documents dated within the last six months.

Plus one of the following:

- Child Benefit letter for the current financial year;
- Child's National Health registration card;
- Child Tax Credit Award Notice for the current financial year.

46. These are typical of the documents required to prove identity and address for many purposes. The objector gives examples of why an applicant may not have one of the documents and how a person moving from overseas may not be able to comply. No one is required to have all of the documents and parents have 15 working days to provide them. In my view this gives parents sufficient time to obtain any document they do not have or to negotiate an alternative. I do not uphold this part of the objection.

Previous Address

47. In the section on changing address the arrangements say that if there is a change of address between applying for a place and the date on which the address is fixed for determining residence, 31 December 2015, "*Applicants will also need to produce evidence that the previous home is no longer used by the family – for example proof that the property has been sold or that a rental agreement has ended. This is to show that the new address is not a temporary arrangement purely to secure a school place.*" The objector considers this to be unreasonable and that it violates the right to a family life, asking "*Why should an old house be sold?*" suggesting that a former home may be legitimately rented out and used as an investment or weekend home.

48. The school says this is to "*deter address manipulation ie moving into a rented address to gain a temporary advantage and then immediately moving back into the original family home.*" This is a legitimate aim although not one the objector would agree with as they say "*Why shouldn't a person use a temporary address to secure a school place if a child has the academic ability to gain a place on merit?*" The objector then suggests how the rules could be manipulated and saying the arrangements do not comply with paragraph 1.13 of the Code as it is not clear how the home address will be determined. That paragraph 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.”

49. The school does not require a former home to be sold as the objector suggests, there could be genuine reasons for retaining the property in family ownership. What it is necessary to demonstrate is that the address given in the application form is the child’s genuine address and not one being used to give the child temporary advantage over other children. This is defined in the arrangements as *“the place where the child normally sleeps from Monday to Friday during term time.”* This is clear in the arrangements and meets the requirements of the Code. Such checks on address are fair to local families who are not trying to manipulate circumstances in their favour. I do not uphold this part of the objection.

Withdrawing Places

50. Paragraph 2.12 of the Code says *“An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application.”* The objector compares this with the wording of the arrangements which say *“considered fraudulent or intentionally misleading”*. Considered, the objector says, is not established.
51. The school has said *“we have only withdrawn one place in the last nine years in an instance where there was clear evidence that the family were not resident at the address that they had listed as their home address.”* This indicates to me that the school rarely uses this sanction and only does so when it has clear evidence. I do not uphold this part of the objection.

Year 7 Admission

52. The objector notes that once any looked after or previously looked after girls and up to 10 girls in receipt of pupil premium have been allocated places at the school, 50 per cent of the remaining places are allocated to girls living in the eastern area of Warwickshire and the residual 50 percent to girls living in the priority circle. The objector says the policy is not clear because it does not say what happens if the number of places is odd and notes that both the groups who get 50 per cent of the places are labelled *“III”* in the arrangements.
53. The school has said that the two criteria are intended to have the same status so are labelled the same. This reflects historical concerns among parents living in the priority circle, but not in east Warwickshire, that they had had less priority for places than those in east Warwickshire. However the school has also said that *“in the event of their [sic] being an odd number of places left the higher category receives the additional place.”* This appears to me to contradict the equality of status of the two criteria.

54. Paragraph 1.8 of the Code says “*Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.*” To be clear as required by paragraph 1.8 of the Code the oversubscription criteria should say what happens if there are an odd number of places to be distributed between the two criteria. They do not and so I uphold this part of the objection.

Special Arrangements

55. The Code at paragraph 1.32b requires admission authorities to “*ensure that tests are accessible to children with special educational needs and disabilities, having regard to the reasonable adjustments for disabled pupils required under equalities legislation.*” The arrangements include a paragraph which explains how parents of children with a disability can ask for special arrangements to be made to enable them to sit the test. This includes a deadline for such requests of 17 June 2015.

56. The objector said “*The policy is unfair to late applicants, especially those moving into the area. If they apply late they cannot comply with the 17th June, 2015 deadline.*”

57. The school says it sets this deadline for parents to notify them about any special needs their children may have in order to take the test to ensure that arrangements can be put in place. The school has assured me that in the event of a late applicant having special needs those needs would be discussed at the time of application and appropriate arrangements put in place.

58. I see no reason to think the school does anything but comply with this part of the Code and I do not uphold the objection.

Years 12 and 13

59. The arrangements include a section on admission to Years 12 and 13. This sets the academic requirements for admission into Year 12 and says provisional offers are made subject to these being met. It continues to say that in the event of oversubscription candidates’ performance at GCSE will be used to determine offers with priority being given to

- I. Looked after and previously looked after children.
- II. Children already attending the school.
- III. Up to 10 children in attracting the pupil premium.
- IV. Other children.

60. The objector says “*offers have to be made once actual grades are obtained after GCSE results are available. What if children who are not offered places score much higher grades? They would be denied places. This cannot be fair.*” The objector also says it is unclear how children in category IV are separated.

61. In its response to the objection the school said that to wait until GCSE

results are available before making offers would be impracticable because the school's timetable and staffing must be set in May each year. The school continues to say "*We invite students on our waiting list to contact us in August if their results were better than anticipated. Every year we offer places not taken up by those originally offered a provisional place to students from the waiting list.*"

62. This does not appear to me to be entirely consistent with what is said in the arrangements. The arrangements say the waiting list is for late applicants and that those who apply on time are made provisional offers dependent on reaching the required academic standard. These offers are confirmed once GCSE results are known with oversubscription criteria being applied if necessary. The arrangements say offers will only be made to waiting list candidates after all applicants who applied on time have been considered. How children in category IV are separated is set out in the arrangements, it is by the home to school distance; I will refer to the lack of a final tie-break in the oversubscription criteria later in this determination.

63. The Code applies to admissions to Year 12 so these arrangements must be clear and fair to comply with paragraph 14. The arrangements for admission to Year 12 appear to be both clear and fair. I therefore do not uphold this part of the objection.

64. There are other aspects of the arrangements for admission to the sixth form which may not comply with the Code and I will address these below.

Other Matters

The definition of previously looked after children

65. The definition of previously looked after children in the arrangements is not the definition used in paragraph 1.7 of the Code and the footnotes to that paragraph. The definition in the Code reflects the introduction of child arrangements orders by the Children and Families Act 2014 which replace residence orders. The school has agreed to amend its arrangements to comply with the Code.

The clarity of the geographic areas

66. The arrangements define the eastern area of Warwickshire through a list of parishes, this is precise and unambiguous. The description of the priority circle is however limited to saying it is centred on the Rugby water tower. Its radius was not stated and I could not find a map showing the areas on the school's website. This does not meet the requirement for arrangements to be clear as required by paragraph 14 of the Code.

67. When I found a map on the LA's website showing the two areas with the priority circle encompassing the eastern area of Warwickshire it

raised another question. Were the two areas mutually exclusive? In other words would a girl living in the eastern area of Warwickshire also be considered as living in the priority circle? In response to my enquiry the school confirmed that a girl living in eastern Warwickshire also lives in the priority circle. This would mean that a girl living in eastern Warwickshire would be eligible for consideration under both of the criteria labelled *III* in the arrangements. I do not think the arrangements are clear on this point.

Tie-breaker

68. Paragraph 1.8 of the Code says “*Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*”. The arrangements say that within each criterion priority is given to those achieving the highest score in the test and “*if there is a further need to split any category places will then be offered in accordance with distance between the child’s home and the school*”. Although it may be unlikely, two or more girls may have the same score and live the same distance from the school, the arrangements must say how they would be separated.

69. The school has suggested that it would resolve such a situation by the toss of a coin. Random allocation is permitted by the Code, but the toss of a coin would only resolve the matter if there were just two girls to be allocated one place. The Code also says in paragraph 1.35 that “*The random allocation process **must** be supervised by someone independent of the school*”. If the school chooses to resolve such situations by random allocation, it should meet this requirement and this should be stated in its arrangements.

Overall clarity of the arrangements

70. Paragraph 14 of the Code says “*admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*” I asked the school for clarification of several aspects of the arrangements. These included having two oversubscription criteria labelled *III* and how any places could be left for allocation under criteria *IV* and *V* if 50 per cent of remaining places had been allocated under the two preceding criteria. I also found new terms being introduced without definition such as “*relevant area (east, south or both)*” and “*priority area*”.

71. The school responded that some parts of the arrangements were “*not phrased as elegantly as it might be.*” It said it was considering including a glossary of terms and looking at consistency of usage to aid parental understanding. In my view the arrangements are not clear as required by paragraph 14 of the Code and such steps would be helpful.

The waiting list

72. The Code says in paragraph 2.14 “Each admission authority **must** maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.” The arrangements say “Any child being offered their second or subsequent selective preference will be added to the waiting list of their higher selective preference in accordance with their score”.
73. I asked the school how what is said in the arrangements complies with the Code. It replied “If students were to be ranked in score order within each of the oversubscription categories, I understand from the LA that late applicants and those living beyond the priority circle would be significantly disadvantaged.” Whether the LA sees any disadvantage or not, it is for the school to comply with the Code which requires waiting lists to be ranked in accordance with the oversubscription criteria and not the score alone.

Sixth form

74. The second oversubscription criterion for admission to the sixth form is “Children already attending Rugby High School”. Paragraph 2.6 of the Code makes it clear that children already on roll at a school are not required to apply for places and transfer into Year 12 if they meet the academic requirements. The PAN and oversubscription criteria for Year 12 only apply to external applicants.
75. The Code requires in paragraph 1.47 that the admission arrangements are published on the school’s website once they have been determined. The application form for Year 12 is part of those arrangements and should be available on the school’s website. I could not find a copy of the 2016 Year 12 application form on the school’s website. The school apologised that it had not done this and sent me a copy.
76. Paragraph 2.4 of the Code sets out what can and cannot be asked for on such forms. It says admission authorities “**must only use supplementary information forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.**” The form asks for details of the applicant’s present school, option choices, career or university choice and access requirements. Such information is not required to make decisions about oversubscription criteria so should not be asked for on the form.

Conclusion

77. For the reasons set out above I partially uphold the objection. I also determine that other aspects of the arrangements do not comply with

the Code.

Determination

78. 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 for Rugby High School, Warwickshire.

79. I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.

80. 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.

Dated: 15 September 2015

Signed:

Schools Adjudicator: Phil Whiffing