



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA 2986

Referrer: Suffolk County Council

Admission Authority: Ormiston Academies Trust for Ormiston Sudbury Academy, Sudbury, Suffolk

Date of decision: 23 September 2015

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the arrangements determined by the Ormiston Academies Trust for Ormiston Sudbury Academy in the local authority area of Suffolk following a referral made and I determine that there are 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. The admission arrangements (the arrangements) for Ormiston Sudbury Academy (the school), an academy secondary school for students aged between 11 and 19, for admissions in September 2016 have been brought to the attention of the Office of the Schools Adjudicator by Suffolk County Council (the local authority). I have considered the arrangements in accordance with section 88I of the School Standards and Framework Act 1998 (the Act) and am of the view there may be matters that do not comply with the requirements of the School Admissions Code (the Code).

Jurisdiction

2. The terms of the academy agreement between the Ormiston Sudbury Academies Trust (the trust) and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the trust, which is the admission authority for the school, on that basis on 9 July 2015, after the arrangements had been brought to the attention of the adjudicator on 29 June 2015. I have used my power under section 88I of the Act to

consider the arrangements as a whole, including those matters brought to my attention by the local authority.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
 - a. the referral dated 29 June 2015 and supporting documents;
 - b. the school's response to the referral, supporting documents and subsequent communications;
 - c. Suffolk County Council's composite prospectus for parents seeking admission to schools in the area in September 2016;
 - d. a map of the area identifying the school and its catchment area;
 - e. confirmation of when consultation on the arrangements last took place and information on the consultation;
 - f. relevant sections of the minutes of the meetings of the local governing body at which admission arrangements were discussed and at which the trust determined the arrangements; and
 - g. a copy of the determined arrangements.

Matters of concern

5. The matters of concern which may not comply with the Code and came to my attention were (the relevant paragraphs of the Code are in brackets):
 - a. the consultation undertaken for the arrangements (1.44);
 - b. the dates when the arrangements were determined and published (1.46 and 1.47);
 - c. the arrangements for children with statements of special educational needs or education, health and social care plans (EHCP) (1.6);
 - d. the arrangements for previously looked after children (1.7);
 - e. the lack of the names of feeder schools (1.8);
 - f. the selection of feeder schools (1.15);
 - g. the lack of a definition for the catchment area (1.14);
 - h. there are no over-subscription criteria for admission to year 12 (2.6);
 - i. the information requested on the application form for admission to year 12 for external students (1.9);
 - j. the admission arrangements for year 12 for external students appear unclear (2.6 and 2.7); and
 - k. how the final decision for admission into year 12 is made (2.7).

Background

6. Ormiston Sudbury Academy opened in September 2012 replacing a previous school, Sudbury Upper School and Art College. It is in

Sudbury, a market town in Suffolk. The school has a published admission number (PAN) of 160. There were 187 on time preferences for the school with 105 first preferences for the school for places for September 2015. The school has not been over-subscribed in recent years. The trust for the school is the Ormiston Academies Trust with some powers delegated to the local governing body.

7. The local authority wrote to the school, with all other own admission authorities in the local authority area, in a letter dated 3 October 2014. The local authority reminded the school in the letter of the dates for consultation, should consultation be needed, for admissions for September 2016 and offered to put any consultation on the local authority's website. The school took up this offer. The local authority provided me with an email to the school dated 27 February 2015 bringing the revised Schools Admission Code and a range of matters in the proposed arrangements to the attention of the school and providing suggested wording.
8. The local governing body considered the draft policy at its meeting 10 March 2015. The local authority wrote again to the school 19 June 2015 raising matters which the local authority said it may have to bring to the attention of the adjudicator. The school provided a draft revision of the arrangements to the local authority 30 June 2015; these were draft pending the meeting of the local governing body which determined its arrangements 9 July 2015.
9. The school's funding agreement sets out that admission arrangements are the responsibility of the trust for the school. The terms of reference for the governance of the school provided by Ormiston Academies Trust, dated September 2014, state that the trustees retain authority and responsibility for "*determination of the admissions policy and arrangements for the Academy in accordance with admissions law and DFE codes of practice.*" In these terms of reference the trustees delegate to the local governing body responsibility for "*implementation of the policies agreed by the Trustees with regard to admissions.*" The school has assured me that the arrangements have now been determined by the local governing body and this determination is written on the assurance of the school that the governing body had authority to do so.
10. The local authority brought its concerns about the school's admission arrangements to the attention of the Office of the Schools Adjudicator on 29 June 2015 using the arrangements available at that point in order to meet the deadline for objections which was 30 June 2015. As the arrangements were not determined until 9 July 2015 there could not be an on time valid objection. The arrangements on the school's website are clearly dated as ratified by the governing body 9 July 2015 and the school advised me that these are the only ones that have been determined.
11. The arrangements include: "*Ormiston Sudbury Academy is able to*

admit 160 students into Year 7 through the Suffolk Coordinated Admission Scheme. In accordance to the admissions code, priority places will be given to: Children who have a statement of Special Educational Needs or an Education, Health and Care plan; followed by Looked after children and previously looked after children.”

12. The over-subscription criteria in the arrangements are, “Where applications for admissions exceed the number of places available, the following criteria will be applied, in the order set out below.
1. Children who have a sibling attending the school in Years 7-13 at the time of application and date of proposed admission.
 2. Children who live within the catchment area and who attend one of the feeder primary schools.
 3. Children residing outside the priority admissions area who attend one of the feeder primary schools.
 4. Children residing within the priority admissions area who do not attend one of the feeder primary schools.
 5. All other applications (closest to the Academy in priority order).

Applications made under criterion 1 will only be considered if supporting evidence from an appropriate professional or other suitably qualified person is attached to the application form.”

Consideration of Factors

13. When I looked at the school’s website 3 July 2015 it provided arrangements for admissions in September 2015. The arrangements subsequently determined for 2016 were significantly different from those for 2015. There were, for example, no references to feeder schools or a catchment area in the 2015 arrangements. As this is the case it would have been necessary for the school to undertake a consultation on the proposed arrangements for 2016. I asked the school for information on its consultation and the school wrote, “*We did ask the LA to put our policy for consultation on their website. The consultation took place on our website also, asking for any feedback on the proposal, we received none and the local authority reported none to us.*” This consultation does not meet the requirements of paragraph 1.44 of the Code and the groups with which the admission authority **must** consult. The only two means of consultation used appear to have been an entry on the school’s website and on the local authority’s website. This is not sufficient to consult, for example, with parents of children aged between two and eighteen as required by the Code. The school has not met the Code’s requirements for consultation.
14. Paragraph 1.46 of the Code says, “*All admission authorities **must** determine (i.e. formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Admission authorities **must** determine admission arrangements for entry in September 2016 by 15 April 2015.*” The arrangements were determined 9 July 2015 and so the school did not meet the requirements of the Code in this regard.

15. Paragraph 1.6 of the Code says, “*All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school **must** be admitted.*” The admission of such children is separate from the oversubscription criteria and must not be included within the criteria. The arrangements say, “*In accordance to the admissions code, priority places will be given to: Children who have a statement of Special Educational Needs or an Education, Health and Care plan.*” The Code requires that the child is admitted but the arrangements only give priority which is not the same thing and therefore does not conform with the Code.
16. The first oversubscription criterion in admission arrangements **must** be priority for looked after and previously looked after children as required by paragraph 1.7 of the Code which 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). Further references to previously looked after children in this Code means such children who were adopted (or subject to child arrangements orders or special guardianship orders) immediately following having been looked after. Oversubscription criteria **must** then be applied to all other applicants in the order set out in the arrangements.*” Definitions of both are given in the Code.
17. The arrangements say, “*In accordance to the admissions code, priority places will be given to: Children who have a statement of Special Educational Needs or an Education, Health and Care plan; followed by Looked after children and previously looked after children.*” The notes with this are the same as the Code but their title does not include previously looked after children and the definition does not include children with a special guardianship order. The arrangements do not meet the requirements of paragraph 1.7 of the Code to make these children the first priority in the over-subscription criteria. Paragraph 14 of the Code 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 or to make the arrangements clear.*” The arrangements are not clear in this regard and do not comply with the Code.
18. There is a sentence immediately after the over-subscription criteria which says, “*Applications made under criterion 1 will only be considered if supporting evidence from an appropriate professional or other suitably qualified person is attached to the application form.*”. This cannot refer to criterion 1 since criterion 1 as published is concerned with siblings. It is not clear what is meant by this and

therefore does not conform with the Code.

19. The third and fourth oversubscription criteria include priority for children who attend feeder schools. However, there are no named feeder schools in the arrangements. Paragraph 1.9b of the Code says that admission authorities **must not**, *'take into account any previous schools attended, unless it is a named feeder school.'* As there are no named feeder schools, the arrangements do not comply with the Code. In addition this makes the arrangements unclear and the Code requires that arrangements must be clear.

20. Paragraph 1.15 of the Code says, *"Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must be transparent and made on reasonable grounds.**"* The school explained to me why it had not named its feeder schools as follows, *"We currently have three true feeder primaries which are our catchment but not our nearest, therefore, with the local authority changes to transport to support a Free School, our parents cannot access free transport – we feel this is misleading and we have families affected by this. We also have true feeder schools that are only sharing information with parents about their MAT secondary or their Catholic secondary, we again feel this is misleading for parents."*

21. I asked for the names of the feeder schools, the difference between a feeder school and a true feeder school, their PANs and the number of children who had been allocated places at the school for 2014 and 2015. The school provided the information shown in table one.

Table 1: names of feeder schools for Ormiston Sudbury

Feeder School	Primary school PAN	Number of on-time applications from children allocated places at the school from each feeder school for September 2014	Number of on-time applications from children allocated places at the school from each feeder school for September 2015
Acton	30	6	10
Cavendish*	15	0	1
Glemsford* & **	30	2	3
Great Waldingfield	20	5	2
Hartest*	15	3	2
Long Melford	36	10	9
St Gregory	45	13	8
St Joseph's***	25	3	1
Tudor	36	25	31
Woodhall	60	27	35
Total	312	94	102

*No free transport as there is a nearer secondary school. The school provides a minibus for children wishing to attend.

**Primary school linked to another secondary school as part of a multi-

academy trust

***Catholic primary school linked to a Catholic secondary school

22. The school also explained that, “*The rationale of them being named as feeder schools is from the reorganisation of the local authority from two middle schools (and the introduction of a Free School within our catchment) to these primaries, the schools were allocated to us as feeder in 2012 for the completion of the reorganisation in 2013.*” There is no definition of a feeder school in the Code. The rationale for naming a feeder school would reasonably include a combination of matters such as that the majority of the pupils transfer to the school from the feeder school; there are close working links between the feeder school and the school in order to enhance continuity for the children; the feeder schools are the local schools; and any child attending a feeder school would have a reasonable chance of being allocated a place at the school if it is selected as a first preference.
23. There are only two schools in the list in table 1 where more than half of the children appear to take up places at the school so there is little continuity exhibited. The combined PANs of the named schools is nearly double that of the PAN of the school so being at a feeder school would not lead to at least some security of place at the school if it were over-subscribed. There are several of these named schools who have closer links with other schools. The school acknowledges that the working relationship with the primary schools is not, in the majority of cases, one that justifies the term feeder school which is its reason for not naming them. Based on the information provided by the school the definition of all of these schools as feeder schools does not meet the requirement of paragraph 1.15 to be “*transparent and made on reasonable grounds.*” The school does not conform with the Code in this regard.
24. Over-subscription criterion 2 includes the use of a catchment area. Paragraph 1.14 of the Code says, “*Catchment areas **must** be designed so that they are reasonable and clearly defined.*” There is no written definition of the catchment area provided by the school in the arrangements. The map on the school’s website is that of a search engine and does not show the catchment area. The local authority provided a map showing the catchment area, but this is not available on the school’s website. The local authority, in its directory for admissions in 2016, describes a transport priority area as based on the nearest school by road to Ormiston Sudbury Academy “*limited by the existing catchment area boundaries for Ormiston Sudbury Academy,*” and provides a link for parents to research their eligibility for school transport. It is the school’s responsibility to define clearly the catchment area in its arrangements so that the arrangements are clear for parents. The information provided by the school does not define the catchment area, is not clear for parents and thus does not meet the requirements of the Code.
25. The over-subscription criteria refer to the catchment area in criterion 2

and in criteria 3 and 4 to the priority admission area. I asked the school to explain the difference. The school said, "*Catchment area is the geographical area and priority admissions is the specific criteria e.g. LAC.*" This remains unclear to me and I doubt it would be clear for most parents reading the arrangements so the arrangements do not comply with the Code.

26. The school has not commented on the questions I raised on the arrangements for admissions to year 12 beyond saying that it has not been over-subscribed for admission to year 12. The school admits external students, but the arrangements do not include any over-subscription criteria for admission to year 12. Paragraph 1.7 of the Code requires oversubscription criteria for each relevant age group and year 12 is a year of admission at the school. Not being oversubscribed does not remove the requirement to have admission arrangements with oversubscription criteria that can be used if the school were to be oversubscribed in the next school year. The school does not meet the requirements of the Code in this regard.
27. I note that there is inconsistency between the information provided by the local authority in its composite prospectus and the school's arrangements. The school has set a PAN of 100 for external students joining year 12 but the directory states the PAN is 30. This difference needs to be resolved.
28. The application form for admission to year 12 asks why the student wishes to study in this sixth form, what the student has to offer the sixth form, for the student's interests outside school, their potential career paths and whether the school is their first preference. Paragraph 1.9 of the Code provides examples of information which admission authorities **must not** use to formulate their admission arrangements. These questions do not comply with paragraph 1.9.
29. The arrangements for admission to year 12 say, '*Where pupils do not have GCE or GCSE qualifications, it will be necessary to consider applications on a case-by-case basis. Student qualifications will be considered along with other information provided by the student's current school, in an attempt to make a fair assessment of the application. This process is at the discretion of the Principal and/or Local Governing Body.*' The school is not providing any indication of what is required for admission to the school in these circumstances. Schools can set entry criteria for admission to year 12, as long as they are the same for existing and potential students, but no entry criteria have been set so the arrangements are not clear. The school also says that it will take account of information provided by the previous school. Paragraph 1.9g says that admission authorities **must not**, "*take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement.*" The arrangements do not conform with the Code.
30. The criteria provided in the prospectus for some courses refer to the

need for audition and interview in order to be assessed for a place at the school. This is not permitted by paragraphs 1.9m and 2.6 of the Code.

31. In addition the wording implies that in certain circumstances that the allocation of places could be made by one individual, which does not comply with paragraph 2.7 of the Code which says that “... a decision to offer or refuse admission **must not** be made by one individual...” The arrangements need to be clear that the decision to offer or refuse admission will not be made by one individual.

Conclusion

32. I have considered the school’s arrangements and conclude that they do not comply with the Code in the ways described above including not consulting appropriately; not determining and publishing its arrangements as required by the Code; not naming its feeder schools or selecting feeder schools on reasonable grounds; and not making sure that the arrangements are clear on several matters and designed to be easily understood by parents and others.

Determination

33. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the arrangements determined by the Ormiston Academies Trust for Ormiston Sudbury Academy in the local authority area of Suffolk following a referral made and I determine that there are matters which do not conform with the requirements relating to admission arrangements.
34. 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: 23 September 2015

Signed:

Schools Adjudicator: Mrs Deborah Pritchard