



DETERMINATION

Case reference: ADA3082

Objector: A parent

Admission Authority: The Langley Park School for Boys Academy Trust

Date of decision: 19 May 2016

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2017 determined by The Langley Park School for Boys Academy Trust for Langley Park School for Boys, Beckenham.

I have also considered the arrangements in accordance with section 88I(5). I determine that aspects of the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 a parent (the objector) about the admission arrangements for September 2017 (the arrangements) for Langley Park School for Boys (the school). The school is a comprehensive academy school for boys aged 11 to 18 in Beckenham. The objection is to the admission arrangements for the sixth form.

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 on 5 February 2016 by the governing body, which is the admission authority for the school, on that basis.

3. The objector submitted her objection to these determined arrangements on 6 April 2016. As required by regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012, the objector has provided me with her name and address. 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

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 6 April 2016 and subsequent emails;
 - b. the school's response to the objection and its responses to my enquiries;
 - c. confirmation of when consultation on the arrangements last took place;
 - d. copies of emails through which the governing body determined the arrangements; and
 - e. a copy of the determined arrangements.

The Objection

6. The objector said she thought that the school's sixth form admissions arrangements contravened paragraph 1.9d of the Code because, if oversubscribed, places are offered on the basis of ability measured by forecast GCSE attainment. The objector also said that the school asks an applicant's current school for their latest report to help assess the applicant's suitability for a place. As school reports usually contain information on behaviour, attendance and achievement, the objector considered that this was in breach of paragraph 1.9g of the Code.

Other Matters

7. Paragraph 14 of the Code requires admission arrangements to be clear and the requirements for admission to sixth forms are set out in paragraph 2.6. This paragraph draws a distinction between applications from students already on the school roll and those who are not. The arrangements did not appear to me to make this distinction clear and there appeared to be confusion around the published admission number (PAN) for Year 12.
8. Paragraph 1.47 of the Code requires admission authorities to publish their admission arrangements on their website once they have been determined. On 18 April 2016 I was unable to find a copy of the application form for sixth form places on the school's website. Application forms are part of the admission arrangements and therefore should be published accordingly.

9. When considering the arrangements as a whole I noted that those for admission to Year 7 did not reflect the introduction of child arrangements orders nor did they explain how parents could request admission outside of the normal age group as required by paragraph 2.17 of the Code. I was also concerned that the tie-breaker set out in the arrangements may not be able to resolve all situations as required by paragraph 1.8.

Background

10. The school is situated in Beckenham in the London Borough of Bromley; it became an academy on 1 April 2011. It is a comprehensive school which admits boys into Year 7 but has a co-educational sixth form. This leads to there being over 1600 students on roll aged 11 to 18.
11. The school is oversubscribed for places in both Year 7 and Year 12. The admission arrangements for the sixth form and Year 7 are easily found on the school's website.

Consideration of Factors

The objection

12. The arrangements say *"In order to achieve entry into our Sixth Form, students must meet the required entry criteria for each of the four courses they wish to study in the Sixth Form. In most cases this will be at least a GCSE grade B, (or grade 6 under the new GCSE framework) in their chosen subjects. Please see the Sixth Form Prospectus for entry criteria for individual courses. Students studying other qualifications such as Scottish Highers should contact the school for guidance. Places in the Sixth Form will be allocated in the following order of priority:*

- *Looked after and previously looked after children who meet the entry criteria*
- *Applications from Internal students who meet the academic entry criteria*
- *Applications from external students who meet the academic entry criteria"*

The statutory admission number [ie of students, female or male, not currently at the School] is set at a minimum of 50 places for external candidates provided that they meet the entry requirements of the courses they wish to study.

If applications which meet these criteria exceed the number that can be offered, applicants will be ranked by academic ability based on their predicted outcomes for their GCSEs."

13. The first part of the objection concerned the last paragraph in the arrangements quoted above. This, the objector said, did not comply with paragraph 1.9d of the Code. Paragraph 1.9d of the Code says *"It is for admission authorities to formulate their admission arrangements, but they **must not** ... d) introduce any new selection by ability."*

14. This is not a selective school and although it is permitted by paragraph 2.6 of the Code to “*set academic entry criteria for their sixth forms, which must be the same for both external and internal places*” it is not permitted to give priority for sixth form places on the basis of academic ability beyond achieving the required standard for the course. Predicted GCSE results can be considered to be a measure of academic ability, so using the extent to which an applicant’s predicted results exceed the threshold required for admission as an oversubscription criterion introduces selection by ability which is prohibited by paragraph 1.9d of the Code. I uphold this part of the objection.
15. The school has accepted that its oversubscription criteria for the sixth form did not comply with the Code and has said it will replace them with those it uses for admission to Year 7. These can be summarised as:
- i. Looked after and previously looked after children.
 - ii. Siblings of pupils in school at the time of entry.
 - iii. Children of specified members of staff.
 - iv. Proximity to the school, with priority being given to those living closest.
16. I have considered a comment made by the objector regarding the fairness of the sibling criterion which is used as part of the oversubscription criteria for Year 7 admissions. I do not consider this sibling criterion to be unfair and I am satisfied that applying the oversubscription criteria currently used for Year 7 to applicants for Year 12 who meet the course requirements would comply with the Code.
17. The school is to be commended for accepting that this aspect of its arrangements did not comply with the Code and for quickly proposing an alternative.
18. In the second part of the objection the objector said that they had been told by the admissions secretary and the headteacher that an external applicant’s current school is asked to supply their latest school report to help assess a student’s suitability. As school reports usually contain information on behaviour, attendance and achievement, the objector considered this did not comply with paragraph 1.9g of the Code which says “*It is for admission authorities to formulate their admission arrangements, but they **must not** take account of reports from previous schools about children’s past behaviour, attendance, attitude or achievement, or that of any other children in the family*”.
19. I have noted that in the sixth form prospectus on the school’s website it confirms that the school asks applicant’s current school for a reference. In response to this part of the objection the school said “*When students apply to us for the Sixth Form we request a reference from their current school which forms the basis of a discussion that we then have with the students that we make an offer to when we call them in to discuss their options.*”
20. Paragraph 1.9m of the Code says “*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.” I do not see how a reference is necessary to form the basis of a discussion about options and course entry requirements. The school said “No places are offered on the basis of what the references say, but only on the projected academic outcomes” and I have determined above that the use of projected academic outcomes as a means of deciding who is to be admitted if the school is oversubscribed does not comply with the Code. Paragraph 1.9g prohibits schools taking account of “reports from previous schools about children’s past behaviour, attendance, attitude or achievement”. Asking for a reference is therefore unnecessary and contravenes the Code. I uphold this part of the objection.

Other matters

21. Paragraph 14 of the Code says that admission arrangements must be clear. In paragraph 2.6 of the Code a distinction is drawn between applications for sixth form places from students already on the school roll and external applicants. *“Children and their parents applying for sixth form places may use the CAF, although if they are already on the roll they are not required to do so in order to transfer into year 12. Admission authorities can, however, set academic entry criteria for their sixth forms, which must be the same for both external and internal places. School sixth form admission arrangements for external applicants must be consulted upon, determined and published in accordance with the same timetable as for admission arrangements for other entry points.”* The PAN for the sixth form required by paragraph 1.2 of the Code is part of the arrangements and must be published and be clear.
22. Paragraph 2.6 of the Code, quoted above, makes it clear that Year 11 students who are on the roll of the school may transfer to the sixth form if they meet the academic entry criteria for the course. It is only external students for whom the school must set a PAN and oversubscription criteria.
23. In the first paragraph of the sixth form arrangements it says *“The capacity of the School’s accommodation for Year 12 students is 340 places.”* In a subsequent paragraph it says *“The statutory admission number [i.e. of students, female or male, not currently at the school] is set at a minimum of 50 places for external candidates”*.
24. The only statutory admission number is the PAN; this is not a minimum figure. The PAN represents the point at which the school becomes oversubscribed. If the number of applicants is less than the PAN, all must be admitted, if the number of applicants is greater than the PAN, the oversubscription criteria must be used to decide which applicants are offered places. The Code does however, in paragraph 1.4, allow admission authorities to admit above PAN.
25. It was not clear what the PAN was for external students applying for places in Year 12, and the inclusion of a priority for internal students among the oversubscription criteria makes the number of places being offered to external applicants less clear again. In response to my enquiries on this matter the school proposed a revision of the wording of this part of the arrangements which I think makes it entirely clear that

the PAN for Year 12 is 130 and that the PAN will be applied to external applicants only. The position of internal students is also clarified in the proposed wording.

26. On 18 April 2016 I was unable to find a copy of the application form for sixth form places in 2017 on the school's website; application forms are part of the admission arrangements and should be published as required by paragraph 1.47 of the Code. I asked the school for a copy of the application form for 2017 so that I could satisfy myself that it complied with the requirements of paragraph 2.4 of the Code which says "*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they must only use supplementary 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. They must not ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:*
- a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates);*
 - b) the first language of parents or the child;*
 - c) details about parents' or a child's disabilities, special educational needs or medical conditions;*
 - d) parents to agree to support the ethos of the school in a practical way;*
 - e) both parents to sign the form, or for the child to complete the form."*
27. On 6 May 2016 the school wrote to me saying that it had reviewed the sixth form application form against paragraph 2.4 of the Code and it had removed parts of the form requesting details of special educational needs, why the applicant had chosen the school, information about extra-curricular activities, aspirations and details of the applicant's current school. The inclusion of any of the questions removed by the school would have led to the form not complying with paragraph 2.4 of the Code.
28. The revised form includes space for both parents to provide surname and initials. Paragraph 2.4 of the Code prohibits requesting "*personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status*". Asking for details of both parents could reveal marital status. Lastly, the form assumes that the application is being made by a parent; while this is permitted, section 86A of the Act allows young people over statutory school age to apply for sixth form places on their own behalf.
29. The Children and Families Act 2014 defined child arrangements orders, these replace residence orders. The definition of previously looked after children in the arrangements did not reflect this change. Also the revision of the Code in 2014 introduced in paragraph 2.17 the following requirement "*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*" The arrangements did not meet this requirement and the school has proposed amendments to the arrangements to comply with

these changes.

30. The proposed definition of previously looked after children clearly refers to child arrangements orders. However, the proposed wording to meet the requirement of paragraph 2.17 says that the school will consider applications outside of the normal age group, this fails to meet the requirement that the process of requesting a place out of the normal age group is set out in the arrangements. Further revision is required to comply with the Code.
31. 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 school uses the distance from the applicant's home to the school as a tie-breaker, it argues that the degree of accuracy of such measurements make it unlikely that two applicants would live exactly the same distance from the school. While it may be unlikely, it remains a possibility that two applicants could live the same distance from the school and so the tie-breaker does not meet requirements of the Code.

Conclusion

32. For the reasons set out above I uphold the objection and find that the arrangements do not comply with requirements in the ways set out above. I commend the school for acknowledging ways in which its arrangements did not comply with requirements and for proposing amendments to them.
33. There are some remaining issues to be addressed which are indicated above and it remains for the governing body to amend and publish the arrangements so that they comply with the Code.

Determination

34. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2017 determined by The Langley Park School for Boys Academy Trust for Langley Park School for Boys, Beckenham.
35. I have also considered the arrangements in accordance with section 88I(5). I determine that aspects of the arrangements do not conform with the requirements relating to admission arrangements as set out in this determination.
36. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

Dated: 19 May 2016

Signed:

Schools Adjudicator: Phil Whiffing