



## DETERMINATION

**Case reference:** ADA 2850

**Objector:** Bracknell Forest Council

**Admission Authority:** The governing body of Charters School,  
Sunningdale, Ascot, Windsor and Maidenhead

**Date of decision:** 25 June 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 governing body of Charters School, in the Royal Borough of Windsor and Maidenhead, for admissions in 2016.**

### The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator (OSA) by Bracknell Forest Council (the objector), about the admission arrangements (the arrangements) for Charters School, a secondary academy school (the school) in the Royal Borough of Windsor and Maidenhead, the local authority, (the LA) for admissions for September 2016. The objection is to the school's failure to consult correctly on the removal of an oversubscription criterion which gives priority for attendance at a feeder school and the subsequent impact on children who live in Bracknell Forest.

### 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. The governing body of Charters School, which is the admission authority for the school, determined the arrangements on that basis, on 23 March 2015 and the objection was referred to the OSA on 15 April 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.

### 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:
- a. the objector's form of objection, dated 15 April 2015 and the objector's subsequent comments and responses;

- b. the objector's letter to the school in response to the consultation, dated 26 January 2015;
- c. the school's responses to the objection and supporting documents, dated between 28 April 2015 and 1 June 2015;
- d. copies of responses to the consultation and the school's replies, dated between 18 December 2014 and 16 March 2015;
- e. the composite prospectuses for the LA and Bracknell Forest Council for admission to secondary schools in September 2015;
- f. maps of the area identifying relevant schools and their designated areas;
- g. confirmation of when and how consultation on the arrangements last took place and supporting documents including a Determination ADA 2605, published by the OSA on 5 September 2014;
- h. a copy of the minutes of the meeting at which the governing body discussed a report about the consultation and determined the 2016 arrangements, dated 23 March 2015;
- i. a copy of the determined arrangements for 2015 and 2016; and
- j. the school's funding agreement, dated 30 May 2012.

## **The Objection**

5. The objector is the admission authority for all community and voluntary controlled schools in Bracknell Forest. The objector asserts that consultation on changes to the school's arrangements for 2016 did not fulfil the Code's requirements, as set out in paragraph 1.44. Specifically, the objector says that the school did not consult the following parties of its proposal to remove the priority for children who had attended one of its feeder schools:

- Bracknell Forest Council
- Ascot Heath Infant School and Ascot Heath (CE) Junior Schools, Bracknell;
- Cranbourne Primary School, Bracknell; and
- Parents of children aged two and eighteen.

6. By arguing that the removal of priority for attendance at a feeder school will cause pupils who attend two feeder schools in Bracknell Forest to face disadvantage when applying for a secondary place, the objector also alleges that the arrangements fail to meet the Code's requirement, as set out in paragraph 14, that the criteria for the allocation of school places be fair.

## **Background**

7. Charters School is a non-selective academy secondary school for pupils between the ages of 11 and 18. It is situated in Sunningdale, Ascot, in the Royal Borough of Maidenhead and Windsor and close to the boundary with the neighbouring LA, Bracknell Forest. The school has yet to be inspected by Ofsted but its predecessor school was inspected in September 2009 and found to be outstanding. The admission arrangements for 2014, 2015 and 2016, including maps showing the catchment area, are easy to find

on the school's website under the admissions tab which is accessed from the homepage.

8. The school is popular and oversubscribed. It has a published admission number (PAN) of 240 and the number of families who select it as a first preference for their child significantly exceeds this number, for example, the number of first preferences was 289 in 2014 and 291 in 2015. Historically, the school has been able to admit all applicants who apply and live within its designated area. However, in 2014, the high number of applications made this impossible and the governing body exceeded its PAN by a small number so that it could admit all applicants who lived in the designated area.

9. In common with most secondary schools in the LA and in Bracknell Forest, the school has traditionally had a catchment area (called a designated area) and feeder primary schools. The school's designated area extends into Bracknell Forest. All the feeder schools are located in the designated area; five are in Windsor and Maidenhead and two (Ascot Heath (Church of England) Junior School and Cranbourne Primary) are in Bracknell Forest. Bracknell Forest is the admission authority for both Ascot Heath and Cranbourne. Prior to the creation of the unity authorities of Bracknell Forest and the LA in 1998, the whole of the designated area and all feeder primary schools fell within Berkshire County Council.

10. The school's determined arrangements for 2016 remove the elements of priority which have historically been given to those who attend one of its seven feeder schools but retain the same designated area. Ascot Heath and Cranbourne are located very near to the north-west boundary of the designated area and about four miles away from the school, which is situated in the more densely populated southern end of its designated area.

11. The school's governing body became particularly concerned about the pressure on places when analysis of its 2014 admissions data demonstrated that, on national offer day, 18 children who lived in the designated area and close to the school, and for whom the school was a first preference, were not able to be allocated a place. The school shared its concerns widely and in May and June 2014, local schools, the local Parish Council, the LA and Bracknell Forest Council and parents were advised, in writing, that 2014 was the last year in which it *'could be assumed that students from within the school's designated area would be allocated a place at the school'*. The school also said that it was willing to increase its PAN but that it did not have the resources to do expand and parents were urged to engage in the LA's consultation about school places.

12. Such was the school's concern that it subsequently met the LA and local councillors, including councillors from Bracknell Forest, to discuss admission issues. In October 2014 the school's governing body decided to consult on changes that it wished to make to its oversubscription criteria. The school reasoned that the removal the feeder school priority would mean that children who live close to the school but who did not attend a feeder school (including because they had been unable to gain admission to such schools given the pressure on primary places), would not be further disadvantaged because they could not obtain a place at their nearest secondary school.

13. The removal of the element of priority for those who had attended a feeder school altered three of the school's oversubscription criteria categories. Criterion 3, '*children who live in the designated area and who have a sibling at the school and who also attend a feeder school*' became '*children who live in the designated area and who have a sibling at the school*'. Criterion 5 '*children who live in the designated area and who also attend a feeder school*' became '*all children who live in the designated area*'. Criterion 8 '*children who attend a feeder primary school*', which followed 'all children who lived in the designated area', was removed entirely.

14. The school published its consultation on the proposed new arrangements on 11 and 12 December 2014. On 23 March 2015, having received a report that summarised the responses to the consultation, the school's governing body determined the 2016 arrangements as published in the consultation and subsequently published the arrangements on the school's website.

## **Consideration of Factors**

### Consultation

15. In considering the objector's claim that the school did not consult correctly with essential stakeholders, I have referred to the list of who must be consulted which is provided at paragraph 1.44, of the Code:

- a) parents of children between two and eighteen;
- b) other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;
- c) all other admission authorities within the relevant area;
- d) whichever of the governing body and the local authority who are not the admission authority;
- e) any adjoining neighbouring local authority where the admission authority is the local authority; and
- f) in the case of schools designated with a religious character; the body or person representing the religion or religious denomination.

The objection asserts that the school did not consult properly with those parties listed at a, b, c and e (f does not apply to the school).

16. In determining who it must consult, the school asked for and followed its LA's advice. Subsequently, on 11 and 12 December 2014, the consultation was sent via email to a comprehensive list of more than 100 addresses, including:

- nurseries, pre-schools, playgroups;
- feeder schools, local primary schools and secondary schools;
- colleges, universities;
- all neighbouring LAs and two diocesan boards;
- doctors' surgeries; and
- local councillors and members of parliament.

17. Additionally, approximately 1300 families of children who attend the school were informed of the consultation via the joint headteachers' weekly update and school staff were consulted via email.

18. The email message said, "*Charters School will be consulting on its proposed Admission arrangements for entry to the school in September 2016, between Monday 15 December and Friday 13 February 2015*". The email had two attachments. One was a notice, on the school's headed note paper, which said that the school was consulting on its arrangements for 2016 and informed readers that a full set of the arrangements was provided in the second attachment and available on the school's website. The notice repeated the dates of the consultation period, explained how to respond and summarised the proposed changes as:

1. *The removal of the "feeder primary school" category of admission*;
2. *The removal of the "preference for co-educational provision" category of admission*;
3. *The inclusion of a "children of staff" category of admission, positioned as criterion 3 in the list of over-subscription criteria; and*
4. *The redefinition of the term "sibling" to ensure that there will be at least one year of overlap between a child attending the school and a sibling applying for a place.*

19. The removal of the feeder school category of admission is the only change which is the subject of this objection.

20. The objector claims that it was not informed of the consultation. However, I have seen the 11 December 2014 email which the school sent to the objector and other neighbouring LAs, in their capacity as admissions authorities, and the objector's 25 January 2015 response to the consultation which begins '*Thank you for giving us the opportunity to respond to your consultation*'. I find that the objector was consulted and I do not uphold this element of the objection.

21. The objector claims that the two feeder schools, Ascot Heath (CE) Junior School and Cranbourne Primary School; an infant school, Ascot Heath Infant School, and (in correspondence following the objection) three providers of early education were not consulted. There was, in fact, no requirement under paragraph 1.44 for the schools or providers to be consulted. Bracknell Forest Council is the admission authority for the three schools and it was consulted on 11 December 2014. In fact, the school exceeded the legal requirement and consulted all seven of its feeder schools. I have seen the email which was sent to them on 11 December 2014. I do not uphold this element of the objection, however, the objector was concerned that the parents at these schools and providers were not consulted and I turn now to consider the school's consultation with parents.

22. The school was required to consult with the parents of children aged between two and eighteen. The school published the consultation on its website and informed its large parent body about its plans. However, it did not

ask all the schools, early years' providers, admission authorities, doctors or employers that it consulted also to distribute the consultation to parents and nor did it request confirmation that the consultation had been passed on to them. Furthermore, the consultation was not publicised in the local press, radio or social media so parents did not have an opportunity to find out about it from these sources.

23. When I raised the issue with the school it said that it had assumed that responsibility for the dissemination of the information to interested parties sat with the schools and admission authorities. This is not correct and the Code is clear, at paragraph 1.44(a), that the responsibility for consulting with parents rests with the admission authority proposing to make the changes. It is possible that many recipients of the school's email did distribute and/or share the consultation with parents even though they had not been specially requested to do so, and, indeed, one of the respondents identified himself as a parent at one of the feeder schools in Bracknell Forest and said that he had discussed the proposal with other parents. However, my judgement is that the school did not meet the requirement to consult parents set out in paragraph 1.44(a) and I, therefore, uphold this element of the objection.

24. In my view, the school consulted conscientiously. The long list of consultees demonstrates its wish to engage with all of the parties required by the Code. It met the requirements set out in paragraph 1.44(b, c, d and e) and by putting the consultation on its website and consulting with its large parent body it came close to having met the requirements of paragraph 1.44(a). However, for the reasons stated above, I conclude that requirements were not met fully, in relation to paragraph 1.44(a), and I partially uphold the objection. The fact that the school did not meet in full the requirements relating to consultation does not affect the status of the arrangements as determined arrangements or my jurisdiction to consider the objection.

### Impact of Arrangements

25. The objector has further argued that the school's 2016 arrangements leave pupils at Ascot Heath (CE) Junior School and Cranbourne Primary School '*unable to fulfil the criterion of attendance at a feeder school in line with all other primary/junior schools which feed into secondary schools*' and therefore that the school's arrangements '*make our (Bracknell Forest's) arrangements unfair because children attending these schools would be discriminated against compared to all other Bracknell Forest residents*'. The objector argues that the school's arrangements contravene the requirement, at paragraph 14 of the Code, that oversubscription criteria be fair.

26. The school is oversubscribed. Not only can it not admit all those who would like a place; it cannot admit all those who live in its designated area and would like a place. Against that background, it has decided to change its arrangements so that from among those living in the designated area it will give priority first to those with siblings at the school and then on the basis of distance. This may mean that some applicants, who live within the designated area but farthest away from the school, are less likely to be allocated a place than they were previously. However, the historic

arrangements have meant that applicants, who live close to the school and within the designated area, could not be allocated a place on national offer day.

27. As made clear in the Code, it is for an admission authority to decide what oversubscription criteria would be most suitable for the school according to local circumstances (paragraph 1.10) and to determine whether or not it wishes to name feeder schools (paragraph 1.15).

28. Oversubscription criteria for schools in Bracknell Forest are in fact currently more varied and less closely aligned with those used in the past by the school than the objector suggests. Only five of the six secondary schools in Bracknell Forest give priority for attendance at named feeder schools. The sixth, which is close to school to Ascot Heath (CE) Junior School and Cranbourne Primary School, largely admits pupils on criteria related to faith and it does not have any named feeder schools. Bracknell Forest Council and the school have not traditionally given the same degrees of priority to 'attendance at a feeder school'. Bracknell Forest gives a high degree of priority to those who live in the designated area irrespective of feeder school status. The school, by contrast, in 2015 gave priority to those who lived in the designated area and attended a feeder school ahead of those who lived in the catchment area but did not attend a feeder school.

29. I am not persuaded in these circumstances that the changes made mean that children living in Bracknell Forest and within the catchment area of the school are unfairly disadvantaged compared with other Bracknell Forest children. In addition, I do not consider that the admission arrangements determined by the school contravene the requirements in the Code for arrangements to be clear, objective and fair.

30. On 13 May 2015, the objector wrote to the OSA saying, "*As we are now aware of their (the school's) intention we would only require this to be deferred for a year to allow us time to consult on a similar proposal with our residents*". The requirements and timetable for admission arrangements to be consulted on and determined are set out in the Act and the Code. The school has already determined its 2016 arrangements and there is no provision to determine now arrangements for later years. Even if the school had agreed to consult on its arrangements at the same time as Bracknell Forest Council, it could not be assumed that the outcome would be that both admission authorities would decide to act in the same way. In addition, my jurisdiction in this case is limited to upholding, not upholding or partially upholding the objections to the arrangements for 2016. I cannot make a determination now about arrangements for 2017 or later years.

31. Finally, I note two other matters. The school continues to list seven feeder schools under the admissions tab on its website. This is correct in relation to admissions up to and including the academic year beginning in September 2015. As regards 2016, the school will wish to ensure that the website accurately reflects the admission arrangements. Additionally, the arrangements are clear that looked after children and previously looked after children are to have the highest priority in the oversubscription criteria as required by paragraph 1.7 of the Code. However, the definition of a previously looked after child has recently changed and the school's wording

'who became subject to a residence order' should be updated to say 'who became subject to a child arrangements order.'

### **Conclusion**

32. On the basis of all the information available to me and having carefully taken account of all the arguments made to me by the objector, the school and the LA, I conclude that, while the school's consultation was extensive, the requirement to consult with parents was not met fully and I partially uphold the objection.

33. I do not uphold the objector's claim that the school failed to consult Bracknell Forest Council and three schools in Bracknell Forest. Neither do I uphold the objector's claim that the school's removal of priority for 'attendance at a feeder school' disadvantages children who live in Bracknell Forest.

34. The objection is partially upheld on the grounds of a flaw in the consultation. However, the objection to the provisions of the school's 2016 arrangements has not been upheld and the only change which the school needs to make is to the definition, in its oversubscription criteria, of previously looked after children.

### **Determination**

35. 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 governing body, the admission authority, for Charters School, for admissions in 2016.

Dated: 25 June 2015

Signed:

Schools Adjudicator: Ms Christine Herring