



DETERMINATION

Case reference: ADA2834

Admission Authority: The City of Portsmouth Boys' School (Trafalgar School), Portsmouth

Date of decision: 4 March 2015

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of The City of Portsmouth Boys' School (Trafalgar School), Portsmouth for admissions in September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2) of the Act the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

The referral

1. The admission arrangements (the arrangements) for The City of Portsmouth Boys' School, which is to be renamed Trafalgar School, (the school), a foundation school for boys and girls aged 11 to 16 for September 2015, have been brought to the attention of the Adjudicator. This occurred as a result of a request made by the governing body, which at the time that the request was made was the admission authority for the school, to vary the admission arrangements which they believed they had determined for admissions in 2015.

2. When I reviewed the arrangements for 2015 which were subsequently determined for the school by the Interim Executive Board (IEB) that was established for the school in October 2014 by Portsmouth City Council, the local authority (the LA), I considered that there may be matters that did not comply with the School Admissions Code (the Code).

Jurisdiction

3. The arrangements were determined on 3 December 2014 under section 88C of the School Standards and Framework Act 1998 (the Act) by the Interim Executive Board for The City of Portsmouth Boys' School which is the acting admission authority for the school. They came to my attention on 16 December 2014. I am using my power under section 88I to consider the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code.

5. The documents I have considered in reaching my decision include:

- a. a copy of the determined arrangements;
- b. the school's response to the matters of concern raised in my letter of 12 January 2015;
- c. the LA's response to the matters of concern raised in my letter of 12 January 2015;
- d. confirmation of when consultation on the arrangements last took place;
- e. a copy of the minutes of the meeting at which the admission authority of the school determined the arrangements; and
- f. evidence that the school's change of character had been approved by the LA and that it had granted a transitional exemption order as provided for under schedule 3 to The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, concerning the intention to retain single sex classes at the school following its change of character.

I held a meeting at the school on 23 January 2015 with representatives of the school and the LA and have taken account of the information which I received there.

Matters of Concern

6. When I wrote to the school and the LA on 12 January 2015, I listed the concerns which I had regarding the arrangements determined by the school's IEB as those which were to apply for admissions to Trafalgar School for September 2015. These were as follows:

(i) the arrangements state that children will be admitted to the school "from all areas of the city" (of Portsmouth). If priority is given in the arrangements to those living within a defined geographical area, such a catchment area must be reasonable in nature and clearly defined as stated in the Code at paragraph 1.14. It appeared to me that neither requirement was met by the arrangements as set out. If, as also appeared possible, the arrangements limited admissions to those living within the area of the city; I was concerned that this may be contrary to the Greenwich judgement referred to in paragraph 1.14 of the Code;

(ii) no admission number is stated as required by paragraph 1.2 of the Code;

(iii) the arrangements contain no statement concerning the admission of children whose statement of special educational needs names the school, and

so do not say how all places will be allocated if the school is oversubscribed as required by paragraph 1.6 of the Code;

(iv) the arrangements contain a phrase “in the following year” as part of the definition of siblings which I considered rendered them unclear and therefore in contravention of paragraphs 1.4 and 1.8 of the Code where the requirement concerning the clarity of arrangements is set out;

(v) it is insufficiently clear how distance from the school to the child’s home will be measured to meet the requirement of paragraph 1.13 of the Code;

(vi) the description of the random allocation process seemed to me to be insufficiently clear to comply with paragraph 1.34 of the Code; and

(vii) no description of how a waiting list would be maintained is provided, and this is a requirement which is set out in the Code at paragraph 2.14.

7. I was also concerned that a statement appeared to have been made within the arrangements that all aspects of admissions had been delegated to the local authority and explained the basis of this concern to the school and the LA.

Background

8. The City of Portsmouth Boys’ School wrote to the Schools Adjudicator on 26 August 2014 making a request that the admission arrangements which it believed it had determined for admissions in September 2015 be varied. It explained that it had been agreed that the school’s character was to be changed to that of a mixed school from that date. It did not however say what variations to the arrangements it intended to make.

9. I wrote to the school seeking confirmation that the arrangements had been determined by the governing body, and asking what changes the school was requesting be made to them.

10. The school confirmed that the governors had agreed that the name of the school from September 2015 would be “Trafalgar School” and that they were at that time in the process of seeking conversion to academy status from 1 April 2015. The school’s letter also specified the changes to the admission arrangements which it believed it had determined for September 2015 were being requested.

11. However, the school was unable to give me any evidence that the governors had determined admission arrangements which would apply for September 2015. The Code requires that admission authorities determine admission arrangements annually. The most recent meeting of the school governors at which the school’s admission arrangements had been determined was on 11 February 2010, and I therefore came to the view that the school’s admission arrangements for September 2015 had not been determined as required. I wrote again to the school stating that since it appeared to me that no admission arrangements had been determined, it was not possible for me to consider a request for them to be varied. I asked the school to provide me with a copy of the determined arrangements, and evidence of their determination, once this had taken place.

12. The school's IEB determined admission arrangements for the school for September 2015 on 3 December 2014. The determined arrangements were forwarded to the school's adjudicator on 16 December 2014, and these take the form of a short document entitled "Admissions Policy 2015/2016", which sets out, first, the status which the school will have on 1 September 2015.

13. The school and the LA have confirmed that an Academy Order has been issued which provides for the conversion of the school to academy status on 1 April 2015, at which time it will also be renamed "Trafalgar School". The LA has also confirmed that it has granted a transitional exemption order which will enable admissions of both boys and girls to be made from September 2015 but for the school to retain single sex classes for those year groups previously admitted. The preamble to the admission arrangements reflects these facts, but includes the statement that the school "*will provide education for boys and girls from all areas of the City from September 2015 for Year 7 pupils*".

14. The arrangements then state that the school has "*adopted Portsmouth City's policy on admission arrangements*", and these are then listed. Four oversubscription criteria are given which say that if the school is oversubscribed, priority will be given in the following order:

- (i) looked after and previously looked after children;
- (ii) children or families who have a significant medical, physical, psychological or social need which means that they need to attend this school;
- (iii) children with a sibling (as defined) "*who will still be attending the school the following year*", and
- (iv) children living closest to the school.

15. A note provides that distance from the school will be used to give priority to otherwise equally qualified applicants if this is needed, and that "*casting lots*" will be used as a final tie breaker. A final statement is made that "*The school...have delegated all their admissions to be managed by the Local Authority (this includes applications, allocations, waiting lists and appeals).*"

16. When I reviewed the determined arrangements, I considered that they may not comply with the requirements concerning admission arrangements and wrote to the school and the LA stating what these concerns were, as set out above, seeking their comments on each of the matters which I had raised.

Consideration of Factors

17. The school has told me that the phrase "from all areas of the City" does not form part of the school's "admission criteria" and was intended to convey to parents the information that the school does not operate a catchment area within the city of Portsmouth. The Code makes it clear in a footnote to paragraph 5 that "*admission arrangements means the overall procedure, practices and criteria... to be used in allocating school places*". As the school has said, the phrase is intended to inform parents about the schools

admission process, and it is within the document which is described as its “admissions policy”. It is therefore part of the school’s admission arrangements.

18. The school does not give priority to children living within the city of Portsmouth, and has no designated catchment area. My view is that the statement could be read by parents as being part of the arrangements for admissions to the school, and that it makes these unclear, since it implies that a child living outside the city of Portsmouth for whom a place was requested would not be admitted. I am of the view that the arrangements do not meet the requirement concerning clarity in paragraph 14 of the Code;

19. The school has also said that a PAN is published, but separately and not as part of the school’s admission arrangements. Paragraph 1.2 of the Code states that: “...*all admission authorities **must** set an admission number for each ‘relevant age group’*” and paragraph 14 that: “*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*”.

20. Without information about the number of available places, it is not possible for a parent to be able to judge whether or not an application is likely to be successful, and it is not reasonable to expect them to have to seek that information from elsewhere. The arrangements do not comply with what the Code requires in paragraph 14.

21. The school responded to my concern about the admission of children with a statement of special educational needs that names the school by saying that an appropriate statement is made on the LA’s website and in its composite prospectus. The school accepted that its arrangements need to contain such a statement. Paragraph 1.6 of the Code says that: “*The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places.....All children whose statement of special educational needs names the school **must** be admitted.*”

22. It is good practice in my view that arrangements make an explicit statement which sets out the position for children whose statement of special educational need names the school, both for the benefit of their parents and so that parents of other children are aware of the priority for school places which they have. Without such a statement the arrangements do not say how all places will be allocated if the school is oversubscribed and do not comply with the requirements of paragraph 1.6 of the Code.

23. The school accepted that the phrase “the following year” in its definition of siblings is ambiguous in its meaning, since it is not clear whether the year referred to is the one in which the admission would be made, or the subsequent one. The school has suggested alternative wording. However, as determined, the wording is not clear, and the arrangements do not comply with what is required by paragraphs 14 and 1.8 of the Code;

24. The school has told me that a statement of how home-to-school distances are measured is published on the LA admissions website and in its composite prospectus. Paragraph 1.13 of the Code states that: *“Admission authorities **must** clearly set out how distance 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.”*

25. Again, it is not reasonable for parents to have to find this information elsewhere and in my view paragraph 1.13 has the effect that the arrangements themselves **must** set this out. The school’s determined arrangements do not comply with this requirement.

26. In relation to the use of random allocation, the school told me that *“since we were adopting the LA’s admission arrangements and they would do the random allocation on our behalf”*, it did not realise that more needed to be said as part of its arrangements. Paragraph 1.34 of the Code says: *“Admission authorities that decide to use random allocation**must** set out clearly how this will operate, ensuring that arrangements are transparent...”*

27. However, the school’s arrangements employ random allocation but do not explain how this is carried out as they are required to by the Code. As determined, the school’s arrangements do not comply with what paragraph 1.34 of the Code requires.

28. The school has also said that since the school understood that the LA would operate a waiting list on its behalf, it believed no statement concerning waiting list was required as part of its arrangements. Paragraph 2.14 of the Code says: *“Each admission authority **must** maintain a fair, clear and objective waiting list.....stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.”*

29. There is no provision in legislation for a school which is its own admission authority to cease to be so, and therefore those matters concerning which action is required on the part of an admission authority must be undertaken by the school. This includes what is required in paragraph 2.14, and the school’s arrangements do not currently conform with what the Code requires.

30. I was provided with evidence that a consultation was carried out concerning the school’s change of status, and the consultation document which was used referred to the proposed admission arrangements as being “in line with the current primary and secondary policies of the LA” but did not state explicitly what these would be. I have seen no evidence that a consultation concerning the school’s admission arrangements for September 2015 has been carried out that would meet the requirements set out in paragraphs 1.42 to 1.45 of the Code and so must conclude that this has not taken place.

Conclusion

31. For the reasons that I have given above, I have concluded that the school's admission arrangement do not comply with what the Code requires:

(i) in paragraph 14 by including a statement which makes the arrangements unclear concerning the area from which children are admitted to the school, and by failing to state the determined PAN as part of the arrangements;

(ii) in paragraphs 14 and 1.8 by the inclusion of a phrase which makes the oversubscription criterion which gives priority to siblings unclear;

(iii) in paragraph 1.6 by failing to say how all places at the school will be allocated if it is oversubscribed;

(iv) in paragraph 1.13 by not stating clearly how home to school distances will be measured;

(v) in paragraph 1.34 by not making a statement which makes clear how random allocation will be used as a final tie breaker;

(vi) in paragraph 2.14 by not stating how it will maintain a waiting list for places; and

(vii) in paragraphs 1.42 to 1.45 concerning consultation on its arrangements.

32. Although the date has now passed by which offers of places at secondary schools must be made, the school's admission arrangements for September 2015 are still relevant to any late applications for places there and to the maintenance of any waiting list. The school should now amend its arrangements as quickly as possible.

Determination

33. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of The City of Portsmouth Boys' School (Trafalgar School), Portsmouth for admissions in September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements.

34. By virtue of section 88K (2) of the Act, the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

Dated: 4 March 2015

Signed: 

Schools Adjudicator: Dr Bryan Slater