



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA3285

**Objector:** A parent

**Admission Authority:** Weald of Kent Grammar School Academy Trust  
for the Weald of Kent Grammar School in  
Tonbridge and Sevenoaks, Kent

**Date of decision:** 31 August 2017

### **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 2018 determined by the Weald of Kent Grammar School Academy Trust for the Weald of Kent Grammar School in Kent.**

**I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which 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 the 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 about the admission arrangements for September 2018 (the arrangements) for the Weald of Kent Grammar School, a selective academy school for girls between the ages of 11 and 18 years and boys between the ages of 16 and 18 years.
2. The objection is to the arrangements for admitting a child outside their normal age group.
3. The parties referred to in this objection are:
  - a. the parent who made the objection (the objector);
  - b. the governing body of Weald of Kent Grammar School (the

- school);
- c. Weald of Kent Grammar School Academy Trust which is the admission authority for the school (the trust); and
  - d. Kent County Council which is the local authority for the area in which the school is situated (the local authority).

## **Jurisdiction**

4. The terms of the academy agreement between the 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 trust on that basis.
5. The objector submitted her objection to these determined arrangements on 9 May 2017. The objector has asked to have her identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me.
6. One of the matters raised by the objector is that the arrangements include a policy for the admission of children outside their normal age group but that the school manifestly does not apply that policy and, indeed, denied the existence of the policy in correspondence with the objector. My jurisdiction is limited to the determined arrangements; whether or not they conform with the requirements relating to admissions and, if they do not so conform, in what respects they do not so conform. I am unable to consider the question of whether or not a school acts in accordance with its admission arrangements. I do note that paragraph 2.7 of the Code requires admission authorities to allocate places on the basis of their determined admission arrangements only. A complaint that a school has not done so is not for me but for other bodies including the admission authority concerned, an independent appeals panels in relation to an application for a school place for a particular child and, in the case of an academy, the Education and Skills Funding Agency. I am satisfied that other aspects of the objection relating to the content of the determined admission arrangements for the school have been properly referred to me in accordance with section 88H of the Act and are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## **Procedure**

7. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
8. The documents I have considered in reaching my decision include:
  - a) the objector's form of objection dated 9 May 2017 and supporting information;

- b) the trust's response to the objection and supporting documents and information on the school's website;
- c) the comments of the local authority on the objection and information on the local authority's website;
- d) the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017;
- e) a map of the area identifying relevant schools and the school's sites;
- f) a copy of the minutes of the meeting at which the trust determined the arrangements;
- g) a copy of the determined arrangements; and
- h) advice issued by the Department for Education in December 2014, *Advice on the admission of summer born children: for local authorities, school admission authorities and parents.*

### **The Objection**

9. The objection relates to paragraph 2.17 of the Code which, in so far as it is relevant here, says that, "*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... Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*" In addition, paragraphs 2.17A and 2.17B provide information on matters that admission authorities must consider and processes they must follow relating to the admission of children outside of their normal age group.
10. The objector says that there are matters within the arrangements relating to the admission of children outside their normal age group which are unclear. This is because the arrangements give some information on the situation of children who wish to join the school a year after the normal age of entry (which I shall refer to as deferred entry) but not those who wish to join a year before the normal age of entry (which I shall refer to as accelerated entry). The objector also says that the information which is provided on the process for requesting admission outside of the normal age group is not clear. Paragraph 14 of the Code requires the arrangements to be clear.

### **Other Matters**

11. There are other matters within the arrangements that do not appear to be clear and so may not conform with paragraph 14 of the Code. Some of these matters also appear not to conform with other requirements of the Code. The matters are listed below with the relevant paragraph of the Code in brackets.
  - a. The priority given to looked after children or previously looked after children does not appear to comply with the requirements of the Code (14, 1.7 and 1.8).
  - b. It is not clear how many children are given priority because they

are in receipt of pupil premium (14, 1.8 and 1.39A).

- c. The arrangements say that distance is measured from the child's home to a designated Ordnance Survey (OS) point but this point is not given and it is not clear how the distance measured is used in establishing priority when the school is oversubscribed (14 and 1.13).

## Background

12. The school is on two sites. One site, the original site, is in Tonbridge in Kent. The second site, called the annexe, will start admitting Year 7 (Y7) girls in September 2017. The annexe is in Sevenoaks, also in Kent. Overall, the school has a published admission number (PAN) of 265 for Y7 with 175 students to be educated on the Tonbridge site and 90 to be educated on the Sevenoaks site. Ofsted judged the school as outstanding in 2006 at its last inspection. The school became an academy in 2011 and the trust is a single academy trust.
13. A parent living in the local authority area of Kent can express up to four preferences for a secondary school place. For admissions in 2016, when the school had a PAN of 230, there were 685 preferences expressed for the school and all 230 places were allocated. The local authority said in its composite prospectus for secondary school education in 2017, "*All the Grammar schools in Kent County Council's area use Kent's tests to help decide which children should be offered places. A Kent Grammar school can only offer a place to a child who has been assessed suitable for admission to Grammar school.*" The school is a grammar school and takes part in this system.
14. The trust determined the arrangements for 2018 on 1 February 2017. When the school is oversubscribed for Y7 with applicants who have passed the selection test, then the oversubscription criteria are applied to decide which children are offered places. These, in summary, are:
  1. Looked after and previously looked after girls.
  2. Sisters of those already attending the school.
  3. Those with medical, health and special access reasons for attending the school.
  4. The equivalent of two girls who are in receipt of pupil premium per Y7 tutor group.
  5. Daughters of staff.
  6. Girls living in geographical categories A, B and C which are described and maps are provided. Those living in area A have the highest priority, then B and then C.
15. Paragraph 2.17 of the Code, as above, deals with the admission of children outside their normal age group. The Department for Education also provides non-statutory guidance: *Advice on the admission of summer born children* (the guidance). The guidance specifically addresses in a section called "*Answers to some common*

*questions*” what might happen when a child being educated out of his or her normal age group transfers to a junior or secondary school. It says on this point: “*Where a child has been educated out of their normal age group, the parent may again request admission out of the normal age group when they transfer to junior or secondary school*”. I note that this would cover both cases of accelerated and deferred entry and, in essence, about the child’s remaining in the cohort he or she has been educated with up until that point.

## **Consideration of Case**

16. In relation to admission outside the normal age group, the school’s admission arrangements say, “*Requests for admission outside of the normal age group should be made in writing to the Headteacher as early as possible in the admissions round associated with the child’s date of birth. Parents are not expected to provide evidence to support their request to defer their application, however, if a child has a medical or educational psychologist report this evidence must be provided with the application. In addition to applying direct to the school parents are required to complete an application for the normal point of entry in case their deferral request is declined. Deferred applications should be made via paper CAF (common application form) to the LA (local authority) attaching written confirmation from the school. All deferred applications will be processed in accordance with our oversubscription criteria for the relevant cohort.*”
17. It appears to me that this information only concerns requesting deferred entry, that is admission after the point at which a child would normally begin Y7. A parent seeking admission for his or her child a year ahead of the normal age (say for the child to start Y7 when children of that age are usually starting Y6) would, by definition, need to apply a year earlier than what the school’s arrangements describe as “*the admissions round associated with the child’s date of birth*”.
18. The trust’s response following the objection, was, “*When requests to place a child out of year are received the details supplied are reviewed carefully and a further offer to discuss the decision with the parents is offered. As the name of the complainant has not been supplied I am unable to provide detail of the actual case and, therefore, what was considered.*” The trust also said in its response that it would be very difficult for even a very able girl to cope with working with very able girls who are 12 months older and able to compete at national levels in sport and music as part of extensive extra-curricular activities. The letter also notes the major physical and emotional changes taking place at this point in a child’s life.
19. It does not seem to me that the trust’s response addresses the concern that its arrangements fail to cover what is required by paragraph 2.17 of the Code. While the trust may have a view about the challenges for a girl of joining this school a year ahead of her normal age group, this does not absolve it of the requirement to comply with the Code. The Code’s requirement is to make clear the

process for admission out of the normal age group, whether such admission would be ahead or behind the normal age group. The school's arrangements do not address the scope for seeking early entry to a school where a child is, in the example given in the Code, gifted and talented. The arrangements therefore do not comply with paragraph 2.17 of the Code as they do not make clear the process for seeking admission outside the normal age range for a child whose parent may seek early admission.

20. The objection includes the lack of clarity in the arrangements with regard to the process of requesting admission out of the normal age group. 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."*
21. In addition, as stated above, paragraph 2.17 of the Code says, *"Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group."* The objector said, *"It is also not clear how the school's published policy (purporting to allow admissions out of year group) would work in practice given the requirement to sit the Kent test. When will this be taken? When should the request be made to the headteacher? The wording in the policy appears to apply more to children applying for a reception place within a primary school. Clarification is needed."*
22. The trust expressed its concern on this matter and its wish to be compliant with the Code. The trust also explained that it looked to the local authority for guidance. The wording used by the school reflects closely the wording, although not the entirety of the wording, used by the local authority in its determined arrangements for 2017 and its arrangements for 2018 as these were initially determined. The local authority's arrangements for 2018 have now been amended following the concerns raised in this objection. While it is understandable that admission authorities in an area should follow wording used by the local authority, it remains the responsibility of each admission authority (in this case the trust) to ensure that its arrangements conform with the requirements relating to admissions.
23. The admission of children outside of their normal age group is more complicated for a selective school. As set out in paragraph 2.17A of the Code, every school would have to take *"account of the parent's views; information about the child's academic, social and emotional development; where relevant, their medical history and the views of a medical professional"* and other factors relevant to each case. For a selective school there is the added complication of when it would be appropriate for the child to take the necessary test and how the score they achieved in it would be used. It is not, however, in my view necessary for all of this information to be set out in admission

arrangements. What is necessary is that parents should know the process for requesting admission out of the normal age group and I have already found that for parents who might seek accelerated admission the arrangements do not do this and that they do not therefore conform with the Code in this regard.

24. I now turn to the question of a parent seeking deferred entry. The arrangements do contain some information with regard to deferred admission and provide that: *“Requests for admission outside of the normal age group should be made in writing to the Headteacher as early as possible in the admissions round associated with the child’s date of birth”*. I have considered whether this is adequate and have concluded that it is not. I consider that the phrase *“as early as possible in the admissions round”* is not sufficiently clear about when it is necessary to register for the test. I do not think that parents reading the arrangements would understand what they needed to do to request admission outside of the normal age group and so the requirement to *“make clear in the admission arrangements the process for requesting admission out of the normal age group”* has not been met. The arrangements therefore do not comply with paragraphs 14 and 2.17. I therefore uphold the objection.

### Other matters

25. I raised the other matters listed above with the trust and they responded seeking ways by which to rectify the situation. This is welcomed. In addition to paragraph 14 requiring the arrangements to be clear, paragraph 1.8 of the Code, requires *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation”* and so is relevant. I consider the other matters below.

26. The first priority in the oversubscription criteria is, *“Children in Local Authority Care - A child under the age of 18 years for whom Kent County Council provides accommodation by agreement with their parents/carers (Section 22 of the Children Act 1989) or who ceased to be so because they were adopted or who is the subject of a care order under Part IV of the Act.”*

27. The Code’s requirement is that priority is given to all looked after and previously looked after children (in the case of this school limited to girls who have passed the school’s selection test). Looked after children are defined in paragraph 1.7 of the Code as follows: *“A ‘looked after child’ is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989) at the time of making an application to a school.”* The form of words used in the arrangements does not include all such children. In the first place, it limits the children covered to those being accommodated by agreement with their parents or carers and this is only a sub-group of looked after children in the definition above. Secondly, it limits the priority further

to such children being accommodated by Kent County Council whereas the Code's requirements as to priority for looked after children are not limited to children being looked after by a particular local authority. The arrangements do not comply with the Code in this matter.

28. The definition of previously looked after children in the arrangements is also inaccurate as it is based on that for looked after children which, as explained above, is inaccurate and incomplete. Previously looked after children are defined in the Code in paragraph 1.7 as follows: *"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)."* The school's arrangements refer instead to a child *"who ceased to be so [looked after] because they were adopted or who is the subject of a care order under Part IV of the Act"*. The school's wording is not consistent with what the Code requires and must be brought into line with the Code.
29. Criterion 4 in the oversubscription criteria is, *"The equivalent of 2 places per Year 7 form group will be offered to children in receipt of Pupil Premium who have passed the Kent Selection Test (11+)."* Paragraph 1.39A of the Code permits an admission authority to give priority to a child in receipt of the pupil premium which is paid annually to schools for the purpose of supporting the attainment of disadvantaged children. In this criterion the number of places available depends on the number of form groups. Without knowing the number of form groups the number of places available is not clear. The arrangements do not therefore comply with paragraphs 14 and 1.8 of the Code which require clarity.
30. Paragraph 1.13 of the Code 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."* Criterion 4, which gives a priority to some of those eligible for pupil premium says, *"These spaces will be calculated on the basis of distance with those being the closest to the OS (Ordinance Survey) Reference being given priority."* The OS reference is not provided nor is a description given of where it is located (such as centre of the school site or the main entrance) and this makes the arrangements unclear.
31. Elsewhere the arrangements explain how distances will be measured but there is no explanation in the arrangements, except that provided in criterion 4, as to how the measured distance affects the priority given to a child. The priority may be given based on distance with those closest being given higher priority, but this is not explained in the arrangements. This makes the arrangements unclear and so they do not comply with the Code.



32. The Code requires that the arrangements be amended so that they are compliant with the Code in relation to the matters set out above.

### **Summary of Findings**

33. The arrangements contain some information on the admission of children outside of the normal age range whose parents wish to defer their admission. There is no information on the admission of children whose parents wish to secure their admission ahead of the normal age range. It is therefore not clear that a parent has the right to request consideration of admission in advance of the normal year of entry. The process requesting such consideration for any child for this school, which requires children to take a test, is not clear. I uphold the objection because although the trust does provide some information on admission of children outside their normal age group in the arrangements, the process is not clear to parents.
34. There are other matters as described above which do not comply with the Code which mainly relate to lack of accuracy and clarity. The Code requires the trust to revise its arrangements to address these matters.

### **Determination**

35. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2018 determined by the Weald of Kent Grammar School Academy Trust for the Weald of Kent Grammar School in Kent.
36. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
37. 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 the determination.

Dated: 31 August 2017

Signed:

Schools Adjudicator: Deborah Pritchard