



DETERMINATION

Case reference: ADA3262

Objector: Milton Keynes Council

Admission Authority: The local governing body of Oakgrove School, Milton Keynes acting on behalf of the Kingsbridge Educational Trust.

Date of decision: 9 June 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by the local governing body for Oakgrove School, Milton Keynes, on behalf of the Kingsbridge Educational Trust.

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 Milton Keynes local authority, (the objector), about the admission arrangements (the arrangements) for Oakgrove School (the school), an academy school for 3 to 19 year olds for September 2018. The school is part of Kingsbridge Educational Trust (a multi-academy trust (MAT)). The objection is to oversubscription criteria relating to the school's feeder schools.

Jurisdiction

2. The terms of the Academy agreement between the MAT 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. On that basis, these arrangements were determined by the local governing body, which has delegated responsibility for admissions from the MAT. The objector submitted the objection to these determined arrangements on 27 March 2017. 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 27 March 2017 and supporting documents;
 - b. the admission authority's response to the objection and supporting documents;
 - c. further correspondence with the school and the local authority;
 - d. the local authority's composite prospectus for parents seeking admission for September 2017;
 - e. a map of the area identifying relevant schools and the Department for Education (DfE) database giving details of distances between schools;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the three meetings at which the local governing body of the school, on behalf of the MAT, discussed the consultation, amended the proposed arrangements in the light of responses to that consultation and then determined the arrangements; and
 - h. a copy of the determined arrangements.

The Objection

5. The objection concerns the admission arrangements for year 7 (Y7) pupils in September 2018 which were determined in February 2017 following a consultation process. The school has four named feeder primary schools and the objector believes that the separation of these schools into two oversubscription criteria giving a higher priority to two of them is unreasonable and contravenes paragraphs 1.9 and 1.15 of the Code. Paragraph 1.9b of the Code states that "*admission authorities **must not** a..... b take into account any previous schools attended, unless it is a named feeder school*". Paragraph 1.15 states that "*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*".

Background

6. The school became an academy in 2011. It was originally a secondary school for 11 to 19 year olds and expanded to become an all-age

school for 3 to 19 year olds in 2016. When the primary intake reach the end of year 6 (Y6) they will continue into the secondary phase without the need for application processes. The first pupils to progress from Y6 to Y7 will do so in September 2019. Currently the PAN for admissions into Y7 – the secondary phase – is 300. The school is oversubscribed at Y7. The PAN for YR for admissions in September 2017 is 25 and in September 2018 the PAN is 40.

7. The school is part of the Kingsbridge Educational Trust (KET) which is a MAT. One of its feeder primary schools; Middleton Primary School joined the same MAT in 2014. Another feeder school, Monkston School has consulted on converting to academy status as a member of the MAT. The consultation ran from 17 October 2016 to 30 November 2016. The consultation document listed a number of benefits to joining the trust including *“Subject to agreement with KET, and compliance with the Admissions Code, the possibility of Monkston pupils being given the same priority for admission to Oakgrove Secondary as that currently given to Middleton Primary pupils.”*
8. The oversubscription criteria used for the allocation of admissions in September 2017 can be summarised as follows:
 - 1) Looked after and previously looked after children
 - 2) Children attending Middleton Primary School
 - 3) Children within the school’s defined area and with siblings at the school
 - 4) Children of staff at the school
 - 5) Other children living within the school’s defined area
 - 6) Children living outside the defined area with sibling at the school
 - 7) Children living outside the defined area but attending one of the other three primary schools in the defined area (Monkston, Broughton Fields and St Bernadette’s)
 - 8) Other children.
9. Discussion concerning changes to the arrangements for admission in September 2018 began at the local governing body meeting on 13 December 2016. At this meeting, it was reported that a request for change had been submitted by the local authority as it believed that the oversubscription criteria were ‘unlawful’ because the feeder schools had been separated into different criteria providing a higher priority for one school over the other three schools. The local authority also considered that to give priority to schools within the MAT over other schools not in the MAT was not compliant with the Code. The local authority drew to the governors’ attention previous Office of the Schools adjudicator (OSA) determinations which had found that the inclusion of feeder schools in oversubscription criteria based solely on

the fact that the schools were in the same MAT may not be compliant with the Code. I note in this context that adjudicator determinations do not set precedents and each case is determined on the basis of whether the arrangements concerned comply with the requirements relating to admissions in the circumstances of the particular school.

10. At the meeting, governors discussed the details of the school's links with the feeder schools. They concluded that two schools, Middleton and Monkston had greater association with the school than the other two schools. They understood that the links must not be solely membership of the same MAT and understood the local authority's view that this might be seen to be the case particularly as the consultation document for joining the MAT by Monkston had stated higher priority admissions as a possible benefit.
11. The minutes of the meetings lists the links with Middleton and Monkston schools as:
 - a) both schools are part of the teaching school network and make contributions to the aspiring leaders training programmes;
 - b) there are strong curriculum links with both schools with joint projects and joint external moderation taking place;
 - c) a former employee of the school is now on the governing body of the primary schools;
 - d) there are strong teaching and learning links with both schools including the shared use of technology systems;
 - e) the school supports maths booster classes and mastery sessions at the two schools;
 - f) the schools are close geographically; and
 - g) the primary schools have supported the school in developing its own provision of nursery and primary phase classes as it has become an all-through school.
12. The other two named primary schools were discussed; the governors wished to retain priority in the admission arrangements for children attending these schools because they are geographically located in the school's defined area (which I consider to be a catchment area for the purposes of paragraph 1.14 of the Code). Both these schools have good links with the school particularly at transition from primary to secondary phase with pupils and teachers visiting in the summer term of year 6. One of these schools, St Bernadette's, is a Roman Catholic school and is therefore also linked to the Roman Catholic secondary school serving the area where many of its pupils choose to apply. Pupils from schools out of the defined area also apply for and are allocated places at the school and if there are a number from any one school then the same transition arrangements are put in place for these pupils. The governors agreed therefore that admission for pupils from

Middleton and Monkston schools should have a higher priority than pupils from the other two named feeder schools.

13. The admission arrangements agreed for consultation at the meeting in December were agreed by a majority vote of the local governing body of seven to one. The only change in the oversubscription criteria from the 2017 arrangements for this consultation document was the elevation of Monkston Primary School from criterion seven to criterion two. Thus, children from Monkston and Middleton would have had the highest priority for places after looked after and previously looked after children.
14. The school consulted on these changes to its admission arrangements between 14 December 2016 and 31 January 2017. A number of responses to the consultation document were received including representation from the local authority and a very full and strong letter from the Chair of Governors at Broughton Fields School. His letter made a strong representation for continuing links with the schools and a plea that local children should be prioritised for admission to the school as has been the case in the past. He states that most pupils from Broughton Fields apply to the school, that the school is only marginally geographically further away than from Monkston and Middleton and that the numbers transferring are comparable with the other schools. The local governing body of the school, which has delegated responsibility for admission arrangements, discussed the responses to the consultation at a meeting on the 9 February 2017.
15. The governors discussed four issues which had been raised during the consultation process:
 - a) The priority given to children of staff. Governors were keen to retain this priority as, although representing only a small number of pupils, they agreed that this criterion supported the school's recruitment and retention policy.
 - b) The PAN for the reception year (YR). The governors accepted the local authority's predicted numbers and in consequence amended the PAN for YR from 90 to 40.
 - c) The priority given to out of area siblings. After extensive discussion the governors agreed that the school should prioritise admissions for children living within the defined area before siblings of pupils who live outside the area.
 - d) The priority given to two feeder schools. Taking into account the change agreed under c) (above), the governors discussed the admission of out of defined area pupils from the four feeder schools. They decided that the strong and additional links with Middleton and Monkston were such that out of area pupils from these two schools should have priority over the out of area pupils from the other two schools.

16. These arrangements were formally determined as the admission arrangements for September 2018 at the meeting on 23 February 2017. The local authority was informed of this and the arrangements were subsequently published on the school's website.
17. The oversubscription criteria determined and published for admission in September 2018 can be summarised as follows;
- 1) Looked after and previously looked after children
 - 2) Children within the school's defined area and with siblings at the school
 - 3) Children of staff at the school
 - 4) Other children living within the school's defined area
 - 5) Children attending Monkston and Middleton Primary schools
 - 6) Children living outside the defined area with siblings at the school
 - 7) Children living outside the defined area but attending one of the two other primary schools in the defined area (Broughton Fields and St Bernadette's primary schools)
 - 8) Other children
18. The local authority referred an objection to these determined arrangements on the grounds that the separation of the two groups of feeder schools is not valid and is unfair. The local authority cited paragraph 1.15 of the Code and suggested that the arrangements did not conform to this. Paragraph 1.15 of the Code states that deals with the requirement that feeder schools be named and that *"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."* Paragraph 1.15 thus does not make any requirements as the fairness, or validity of feeder schools. Paragraph 14 provides that arrangements **must** be fair and paragraph 1.8 that oversubscription criteria **must** be *"reasonable, clear, objective, procedurally fair..."*. I have tested the school's use of feeder schools against these wider requirements of the Code in order to address the local authority's objection fully.

Consideration of Case

19. I consider first whether the school's arrangements conform with paragraph 1.15 of the Code. The feeders are named so that part of the paragraph (along with paragraph 1.9b) are satisfied. The governors have set out their reasons for naming these particular schools. I have considered whether their grounds for naming them are transparent and reasonable. In considering this, I note that neither paragraph 1.15 nor

any other part of the Code either allows or prohibits having two separate categories of feeder school and I have considered whether the school has transparent and reasonable grounds for its approach.

20. The governing body made it clear that the criteria are not solely a reflection of the membership of the KET. They make the point that the school had specific links with Middleton School before it became part of the MAT and that is why it was originally placed as a high priority in the oversubscription criteria. They also state that Monkston School currently remains as a community school although there is an intention to join the MAT. The particular links with these schools are outlined in paragraph 11 (above). I would question the relevance of c) (*A former employee of the school is now on the governing body of the primary schools*). This does not necessarily indicate that there are strong links between the schools. I have also looked into f) (*The schools are close geographically*). According to the Department for Education's (DfE) web site, the distances of the feeder schools from the school are as follows;

- Middleton School 0.29 miles
- St Bernadette's School 0.39 miles
- Monkston School 0.61 miles
- Broughton Fields School 0.88 miles.

I do not consider that these geographical distances provide evidence that Middleton and Monkston schools are significantly closer to the school than the other two feeder schools and therefore I do not accept this as a valid reason for separating the two groups of schools. However, I am of the view that the other links to these two schools as indicated in paragraph 11 do constitute a stronger relationship with the school and I therefore understand why they may be separated from the other two schools in the defined area. I am of the view that this is compliant with paragraph 1.15 the Code.

21. Paragraph 1.9b of the Code states that "*admission authorities **must not**take into account any previous schools attended, unless it is a named feeder school*". I am of the view that the admissions arrangements for the school do comply with this paragraph in the Code; the priority for admissions is set out in the oversubscription criteria and all specific schools are named feeder schools

22. Having established that the feeder schools have been named and selected on transparent and reasonable grounds, I have considered their use against the requirements of paragraphs 14 and 1.8 which I have set out above. While the objector has not referred to these provisions of the Code, the objector has argued that the separation of feeder schools in the criteria is unfair and unreasonable.

23. The local authority makes the point that all schools in the Milton

Keynes area are grouped into liaison groups which each constitute a secondary school and its feeder primary schools. It suggests that the separation of the feeder primaries into two groups undermines this liaison and creates unfairness. The Chair of Governors, in his response to the objection, states that the liaison groups are a historical legacy and exist mostly on paper. He notes that the school's liaison group has only met on two or three occasions each year for the past three years and the group has little operational impact. He makes the point that the headteacher of the school, who has been in post for two years, has never met the headteacher of Broughton Fields School. He confirms that St Bernadette's School is also part of the Secondary Catholic School's liaison group.

24. In subsequent correspondence, the school explains the links it has with other primary schools. Pupils from many other primary schools have been admitted to the school in Y7. Where there are a large number of pupils transferring the school provides the same transition arrangements for these schools as it does for its named feeder schools. The Chair of Governors provides the example of one school where there are a significant number of pupils transferring in September 2017 and explains that transition arrangements for this school are in place.

25. I have looked in detail at the admissions of pupils to the school in the last four years including up to date information for admissions in September 2017. In each of these years all the applications from the four feeder schools have been successful. The school is consistently oversubscribed each year and has admitted up to its PAN of 300. The total number of pupils admitted from the four feeder schools, including those pupils who live outside the defined area in recent years have been as follows:

Year	2014	2015	2016	2017
Number	220	276	279	255

26. The difference between these numbers and the PAN is made up with pupils from schools other than the feeder schools.

27. The local authority provided the figures for admission based on the national offer day numbers each year. This provides a clear comparison across the years although the actual numbers being admitted in September will be slightly different. The school has provided the up to date information for the 2017 intake. This shows that all pupils who have applied from the feeder schools, whether living within or outside the defined area have been successful and that 21 other children who lived outside its catchment and attended other primary schools have also been admitted. The last such child admitted

lived 1.011 miles from the school.

28. In the determined arrangements for 2018, children living in the school's defined area (the catchment area) have higher priority than those who attend the feeder schools. Such children will accordingly be considered for places before any account is taken of the primary schools they attended. Most children from all four of the named feeder schools will be admitted under the defined area criterion as most live within the defined area. The differentiation between two sets of feeder schools in the oversubscription criteria therefore only relates to children who both live out of the defined area and attend the feeder primary schools. These numbers are relatively small; in 2016 the number of out of area children from the feeder primary schools admitted was 21 and in 2017 the number is 31. In 2017, four out of area children from Broughton Fields and 19 children from St Bernadette's have been admitted. Under the 2018 arrangements after out of area children from Monkston and Middleton Schools priority is given to out of area children with siblings at the school and this will include some from the other two primary schools reducing further the number from these schools who are to be considered against the second feeder school criterion. Predicted numbers indicate that out of area applications from all four feeder primary schools will be admitted in 2018.
29. The local authority explains that there are two other factors to be taken into consideration when looking at the fairness of the criteria relating to feeder schools. First, the school's own primary pupils will, when they reach Y6, have automatic progression to Y7 and this will necessitate a reduction in the Y7 PAN which will in turn reduce the number of places available for other children. This first transition will take place in September 2019. The local authority suggests that the numbers coming through the school in this way will increase in the next few years to 90. The PAN for YR for 2016 and 2017 admissions was set at 25 and for 2018 the PAN is 40. The Chair of Governors states that the admission arrangements, specifically the PAN will need to take this into account when the pupils are at that age and will consult on any changes at that time.
30. Secondly, the local authority states that the PAN for Middleton Primary School has been increased to accommodate the numbers of pupils in the area and that the increase in PAN of 30, from 60 to 90 will have an impact on the school's admissions when children from that larger year group apply for secondary places. The larger year group is now in Y3; the impact will be in 2020. The local authority suggests that these factors may lead to some out of defined area pupils from the lower priority feeder schools not being allocated a place. In response to this concern, the Chair of Governors says that the school is aware of the larger year group working its way through the primary school. He says that at that time the governors will reconsider the arrangements and will consult if changes are proposed.
31. My jurisdiction for this objection is specifically in relation to the arrangements for September 2018 and I am not therefore able to

comment on the possible impact of future changes to the PAN or the impact of a future larger year group coming through from a primary school. Admission arrangements are determined and published annually and the local authority's concern will need to be addressed at the relevant time.

32. I come now to the fairness of the determined and published arrangements for September 2018. For comparison purposes I have used the actual figures for pupils who have gained a place for September 2017.
33. Pupils with a statement of special educational needs (SEN) or an Educational, Health and Care (EHC) plan which names the school are admitted automatically and there are three of these pupils in the 2017 intake. For September 2018 there are eight oversubscription criteria. Looked after and previously looked after children are placed at the highest priority in line with the Code. Two pupils in this category have been admitted for September 2017. Siblings of current pupils who live in the defined area are placed second with children of staff third. For the 2017 intake, four children of staff and 60 within area siblings have been allocated places. This does not include siblings who attend Middleton School as in 2017 these pupils are given a higher priority. In 2018, priority four is now all children living in the defined area (other than defined area siblings who will have a higher priority) which, as noted above, will include such children who attend all four feeder primary schools.
34. The determined arrangements for 2018 indicate that the governing body has reflected on the responses to the consultation and has agreed to give priority to all children who live in its defined area irrespective of which primary school they have attended. By removing the high priority for one of its feeder schools this provides a much higher degree of priority for all defined area children. Criterion five covers those children attending two feeder primary schools who live out of the defined area. The significant curriculum and administrative links between the schools has been demonstrated and it is therefore reasonable that children in these schools should have a relatively high priority for the school (though not as high as those living in its defined area). This will give them a higher chance of being able to progress to secondary school with their primary classmates as part of the continuum described by the school.
35. Out of defined area siblings are placed sixth and the Chair of Governors points out that many of these will be children who attend the other two feeder schools whose out of area children are placed at criterion seven. The decision to place all remaining out of area siblings above out of area children at the other two feeder schools was taken by the governors at the February meeting. Governors discussed this in depth and there are advantages to providing a single school for members of a family to attend. The criterion is compliant with the Code. The position of the out of area children attending the other two feeder primary schools at criterion seven indicates that the links with these

schools are not as firm as those with the other two schools. As it happens, in 2017 all such children who wish to have a place at the school have been allocated one and projections indicate that this will remain the case in September 2018.

36. I am of the view that the oversubscription criteria involving the use of feeder schools are compliant with the Code and I do not uphold the objection.

Summary of Findings

37. The objection to the arrangements argues that the separation of two groups of feeder primary schools in the priority order within the oversubscription criteria is unfair and unreasonable. It says that the separation is based on schools within the same academy trust and it is unfair to the two schools not in the trust. It questions whether or not the separation of feeder schools in this way is compliant with the Code.

38. I am satisfied that the separation of groups of schools in the oversubscription criteria is compliant with the Code as long as the reasons are transparent and made on reasonable grounds and I am satisfied that the school has demonstrated this with the significant curricular and administrative links with the two prioritised schools. These links are well established and pre-date the conversion of the schools to academies within the trust. It is likely that all applications for admission from the four feeder primary schools will be successful in September 2018.

After consultation on the proposed arrangements the governing body made the decision to prioritise children living in the defined area above any feeder school priority. I am of the view that the admission arrangements are compliant with the Code and I therefore do not uphold the objection.

Determination

39. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by the local governing body for Oakgrove School, Milton Keynes on behalf of the Kingsbridge Educational Trust.

Dated: 9 June 2017

Signed:

Schools Adjudicator: Ann Talboys