



DETERMINATION

Case reference:	ADA3279
Objector:	A member of the public
Admission Authority:	The governing body of John Cabot Academy, Kingswood, Bristol on behalf of the Cabot Learning Federation
Date of decision:	17 August 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2017 determined by the governing body of John Cabot Academy, Kingswood, Bristol.

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 arrangements within two months of the date of this determination unless an alternative period is specified. In this case, I determine that the arrangements must be revised within two months with the exception of one matter that must be revised by 28 February 2018.

The objection

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 a member of the public, (the objector), concerning the admission arrangements (the arrangements) for September 2018 for John Cabot Academy, Kingswood, Bristol (the school). The school is an 11-19 academy school. The objection is in seven parts and covers a number of elements of the school's admission arrangements.
2. The school is located in the area of South Gloucestershire Council, which is also the local authority. The local authority, the school's governing body and its academy trust (the Cabot Learning Federation) and the objector are the parties to the case.

Jurisdiction

3. The terms of the funding agreement between the Cabot Learning Federation and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. The school's governing body determined these

arrangements on 26 January 2017 on behalf of the academy trust, which is the admission authority for the school, on that basis. The objector submitted their objection to these determined arrangements on 22 April 2017.

4. 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

5. In considering this matter, I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the objection form dated 22 April 2017;
 - b. comments from the school in response to the objection together with supporting documents;
 - c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2017;
 - d. a map showing the admission zone for the school; and
 - e. a copy of the determined arrangements for 2018.

The Objection

7. There are seven parts to the objections as follows:
 1. The school website does not contain the correct admission information as required by paragraph 1.47 of the Code.
 2. It is not clear that all those applying with a statement of special educational needs or an education and health care plan (EHCP) that names the school will be given a place as required by paragraph 1.6 of the Code.
 3. The school is using banding as a form of selection but does not provide details of the date of the testing. The school does not complete the testing and inform parents of the outcome of the tests by 31 October as envisaged by paragraph 1.32c) of the Code. There is no supplementary information form (SIF) to collect the additional information needed to carry out the tests.
 4. The arrangements do not set out how "drawing lots" or random allocation will take place and how it is independently verified as required by paragraphs 1.34 and 1.35 of the Code.

5. There is no map showing the zone areas described in the arrangements and so do not meet the Code's requirement in paragraph 1.14 for any catchment area to be clearly defined.
6. There is no clearly indicated PAN or oversubscription criteria for Year 12 admissions as required in paragraph 1.2 and 1.7 of the Code.
7. There are questions on the application form for a place in Year 12 that are not permitted by the Code. The questions are: Is this your first choice of school? Do you have additional learning needs? Which school did you attend?

Background

8. The John Cabot Academy is an 11-19 academy located in Bristol and is part of the Cabot Learning Federation (which is multi-academy trust (MAT) and which I refer to for ease of reference as the federation) that includes other secondary and primary schools in the area. The school has a published admission number (PAN) of 160.
9. The school seeks to admit a full range of abilities and uses banding to assist with this. The school has contracted with an independent company, GL Assessment, to undertake the testing and the banding arrangements. The admissions flowchart, which is shared with applicants describes how, once applications have been received following the closing date all applicants are asked to take a non-verbal reasoning test which will place applicants in one of five bands. The company then allocates the percentage of places available in each band to align with the national profile for distribution of ability.
10. The arrangements say that "*applicants in the following groups are then allocated a place:*
 - i) *Children in public care and children previously in public care*
 - ii) *Students with a statement of educational need (SEN) or an education and health care Plan (EHCP), where John Cabot Academy is named and can meet the needs of the individual student.*

The following criteria are then applied to the remaining places from within each of the ability bands:

- a) *Admission of students whose siblings currently attend the school (in Years 7 to 11 and including students of Year 12 age who completed their GCSEs in Year 11 at John Cabot Academy).*
- b) *Remaining places in each ability band will be allocated by the drawing of lots in 2 geographical zones. zone A will be a zone up to a 4 mile radius from the fixed point shown on the attached map; zone B will be a zone over 4 miles radius from the fixed point shown on the attached map.*

Wherever possible 80% of the places will be allocated to zone A and 20% to zone B.

bi) If, at the end of this process, there are unallocated places in a zone within a band these will be filled by unallocated applicants from the other zone within the same band by drawing of lots.

bii) If, at the end of this process, there are unallocated places in any band these will be filled by unallocated applicants in adjacent bands using the same allocation criteria set out at (b) above.”

11. The federation runs a collaborative 16-19 provision, covered by an annex to the funding agreement between the John Cabot Academy and the Secretary of State. The provision is through a collaboration between six academies that are part of the federation. The provision is registered at the John Cabot Academy and replaces arrangements registered at the sites of the collaborating schools. The provision is located at two sites, John Cabot Academy and Bristol Metropolitan Academy with some provision at Digitech Studio School.
12. The arrangements say that *“the provision primarily intends to serve students from schools within the federation, so all the schools in the federation with Year 11 students are named as feeder schools. All students who are on roll at John Cabot Academy can progress through to Year 12 if they meet the minimum academic entry requirements; the PAN for external applicants is 235.”*

Consideration of Case

13. The first part of the objection concerns the school website. The objector was unable to find the required information concerning admissions on the website at the time of the objection. The school has responded to this point and took steps to ensure that the arrangements for 2017 and 2018 are displayed as required by the Code. I uphold this part of the objection.
14. The second part of the objection is about the arrangements for children with statements of SEN or an EHCP. The objection is that the arrangements appear to say that students with statements of SEN or an EHCP naming the school have to apply for a place and undertake the non-verbal reasoning tests. The objector says that this does not comply with paragraph 1.6 of the Code that says the school **must** admit such children. In this context, the arrangements also refer to where the school is named *“and can meet the needs of the individual student”*. The objector points out that this is in excess of what is necessary and merely confirms what has already been stated by way of the school being named on one of these documents.
15. The school responded that it sought to ensure that the operation of the admissions policy is in accordance with the Code and students with statements of SEN or an EHCP that names John Cabot Academy will receive a place at the Academy. It recognises that the order in which these are included in the document may be confusing and said that it was willing to update the policy to make it clear that students allocated a place via their SEN

statement or EHCP are not considered as part of the oversubscription criteria. The school will also remove the wording “*and can meet the needs of the individual student.*”

16. The school has provided the summary of how the allocations were made for September 2017 and it is clear that such applicants were indeed allocated places in advance of any other places and that the individuals were not required to undertake the non-verbal reasoning test. My jurisdiction is, of course, for the determined and published arrangements. As it happens, I am satisfied that the school is following the Code’s requirements in practice but that is not what a reader of its admission arrangements would necessarily think. I accordingly uphold this element of the objection on the grounds that the arrangements do not satisfy paragraph 14 of the Code which requires arrangements to be “*clear*”.
17. The third point in the objection is that the school has chosen to use banding but that within the over-subscription criteria themselves there is no mention of when the test will take place. Elsewhere in the arrangements it says that in “*late November – John Cabot Academy sends appointments for assessments to be held in early December. All applicants are allocated an assessment.....*”. The objection is also that this does not comply with the Code in paragraph 1.32c that says an admission authority must “*take all reasonable steps to inform parents of the outcome of selection tests before...31 October...*”.
18. The Code in paragraph 1.17 says “*selective schools must publish their entry requirements for a selective place and the process for such selection.*” The school does this at the beginning of its arrangements. It does not specify the date and time of the banding test but does say that all applicants will receive a letter in late November with these details. I am satisfied that this meets the requirements of paragraph 1.17 of the Code because the entry requirements are clear, and the process for the selection is set out. The date and arrangements for the test are sent individually to the applicants and I see no reason to think that this does not comply with the Code in this respect. The school provides this information in a clear way and so I do not uphold the first element of this point in the objection.
19. The school responded that it does not consider the banding process to be selection as it does not set a minimum entry requirement for any students joining the school. It uses banding to ensure that the intake is truly comprehensive. On this basis, the school believes that the provision in paragraph 1.32 that the admission authority should use its best endeavours to inform parents of the outcome of tests by 31 October does not apply to it. The school considers that knowing the outcome of the test would not provide any information about the likelihood of success of application to the school as intake is across all bands.
20. The local authority supports this view and confirms that the school “*does not practise selection in the sense of a minimum standard for admission and that the banding procedure is intended to reinforce a comprehensive intake.*”

21. In the 2010 School Admissions Code paragraph 2.98 said that “*grammar schools , and other schools, or their admission authorities, which are permitted to use selection by ability or aptitude, **should** ensure that parents are informed of the outcome of entry tests before they make their applications to other schools. This does not apply to testing as part of banding arrangements.....*”. The 2010 Code has been replaced by the 2014 Code. Paragraph 1.25 of the 2014 Code states that “*pupil ability banding is a permitted form of selection...*”, and paragraph 1.32c says that admission authorities must “*take all reasonable steps to inform parents of the outcome of selection tests....before 31 October...*”. The current Code does not make the same exception for banding tests and I therefore uphold this part of the objection. The school will need to consider how to comply with this point. I have considered carefully what timescale to set in accordance with paragraph 3.1 of the Code for the admission authority to comply with this element of my determination. It will take the school some time to make the practical changes to its arrangements to allow for earlier testing. I do not consider it feasible for this to be done in time for those who might be interested in applying for a place to be informed, and for tests to be organised now in order to be held and results given by 31 October this year. Schools which will be administering tests over the coming weeks will have been making the necessary arrangements for some time. I will therefore set a deadline of 28 February 2018 for the necessary changes to be made so that the arrangements conform with the Code.
22. A third part of this element of the objection considers that the school should be using a SIF if it is undertaking selection in order to gather the information required to carry out the banding tests. The school does not consider this to be necessary and points out that it has all the information it needs – the contact details of the applicant’s family in order to be able to arrange the banding tests. If a child requires special arrangements to be made for the testing, there is the opportunity to request this when the invitation to the testing is given by the school. I agree that in the present arrangement that this is the case, the situation becomes more difficult if the school is to complete the tests before the closing date for admissions because it may not have received the details of potential applicants at that time. It will need a system for gathering this information. However, on the basis of the arrangements as they are written, I do not uphold this element of the objection.
23. The fourth part of the objection concerns the issue of “*drawing lots*” referred to in the arrangements. Such a system is described as random allocation in the Code and paragraphs 1.34 and 1.35 apply. The objector says that there is no reference within the arrangements to how this method of place allocation is ‘*supervised by someone independent of the school*’.
24. The school responded that it did refer to an independent person in the arrangements and submitted a report from the company that undertook the testing and banding allocations as evidence that this had been undertaken within the requirements of the Code. Although I am satisfied that the school complied in this respect with the Code, the objection is that the school does not clearly set out how it will do this in 2018. In this respect I uphold this element of the objection and the school must set this out in its arrangements.

25. In the fifth part of the objection, the objector pointed out that there was no map available to show the zone areas on the school website and no detail about how distance is calculated. The school noted these comments and has taken action to address them. There is now a map available in the admissions section of the school's website and the school will add information about how distance is calculated into the arrangements. I uphold this element of the objection on the grounds that the information was not available at the time the objection was made.
26. For the avoidance of doubt, I emphasise that the following paragraphs are concerned only with admission to Year 12 and not to Year 7. The admission arrangements for Year 12 are different and including the giving of priority to children who have attended other schools in the federation. The sixth part of the objection is that there is no PAN and there are no oversubscription criteria for admissions in Year 12, the arrangements are therefore unclear. The objector says that the arrangements for Year 12, which is what the Code refers to as a "*relevant age group*", do not comply with the Code's requirements in paragraph 1.2 to set a PAN for all relevant age groups, and paragraph 1.7 to set oversubscription criteria for use if the school is oversubscribed in that age group.
27. I have established that the school is part of the Cabot Learning Federation and the admission arrangements for this can be found with some difficulty on the federation website. Within those arrangements, there is a PAN of 235 published and details of how to apply and the oversubscription criteria that will be used. In consequence I do not uphold these elements of the objection concerning paragraphs 1.2 and 1.7 of the Code. However, the Code in paragraph 14 requires admission arrangements to be "*clear*". The separation of the 11-16 arrangements from the 16-19 arrangements into separate websites and the complicated tab system on the federation site, which makes locating the admission arrangements very difficult are not clear. I partially uphold this element of the objection.
28. The seventh part of the objection refers to the online application form for Year 12. The objector points out that three of the questions that are asked potentially contravene the Code. The first such question is "*Is this your first choice for post 16 study?*" It is unclear why the school asks for this information and the objector suggests that it does not comply with paragraph 1.9c) of the Code that says "*admission arrangements must not give extra priority to children whose parents rank preferred schools in a particular order*". It is not clear whether the school is ranking applications in the way the Code suggests but if it is then it does not comply with this requirement of the Code and if it is not then this appears to be an unnecessary question to ask. The Code in paragraph 2.4 says admissions authorities **must not** "*use supplementary forms that ask for any information prohibited in paragraph 1.9...*". I therefore, uphold this element of the objection.
29. The form then asks whether an applicant has "*additional learning needs*" and asks about "*access arrangements*". By including the questions in the form, it could be interpreted that the school is taking these matters into account in its

admission process. If it were to do so, it would be in contravention of paragraph 1.9h) of the Code which refers to discrimination against disabled children, and this question should be removed. I uphold this element of the objection. These questions are also on the enrolment form for discussion as part of the enrolment process which takes place after a place has been allocated. I observe that this is the appropriate place to establish if a student, who has been allocated a place requires any additional support.

30. Lastly, the form asks for the name of and applicant's current/last school. Paragraph 1.9b) of the Code prohibits taking account of previous schools attended unless they are feeder schools. However, I am satisfied that this question is establishing whether or not the applicant has attended one of the other secondary schools in the federation. I am satisfied that these schools fall within the definition of feeder schools set out in paragraph 1.15 of the Code. The drop down list of available schools includes only the secondary schools in the federation or the option to say "other schools". The arrangements are clear that priority is given to those who have attended feeder schools, so I understand this question to be seeking to establish whether an applicant attended a feeder school rather than attempting to take account of previous schools. In consequence I do not uphold this element of the objection.

Summary of Findings

31. I have considered each of the elements of the objection and the school has offered its comments in response to each of the areas. There are several matters where I have upheld the objection and the school must now revise the arrangements to ensure that they comply with the Code. There are some areas where I have not upheld the objection and no action is required but it is possible that, in reviewing the overall arrangements, the admissions authority may decide that it can improve on its wording. Paragraph 14 of the Code says "*parents should be able to look at a set of arrangements and understand easily how places at that school will be allocated.*"
32. The Code requires the admission authority to revise its arrangements within two months of the date of this determination unless an alternative period is specified. I note that the school summer break has begun but that the closing date for applications is 31 October. For all but one of the changes required I do not intend to specify a longer period. The admission authority must revise these arrangements within two months of the date of publication of this determination. However, the review of the timescale for the testing cannot be undertaken in time for the 2018 arrangements and I therefore determine that revisions must be made by 28 February 2018.

Determination

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2017 determined by the governing body of John Cabot Academy, Kingswood, Bristol.
34. 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 arrangements within two months of the date of this determination unless an alternative period is specified. In this case, I determine that the arrangements must be revised within two months with the exception of one matter that must be revised by 28 February 2018.

Dated: 17 August 2017

Signed:

Schools Adjudicator: David Lennard Jones