



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3384

Objector: A parent

Admission Authority: The academy trust for Twynham School,
Dorset

Date of decision: 26 July 2018

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 determined by the academy trust for Twynham School in Dorset for admissions in September 2019.

I have also considered the arrangements for 2019 in accordance with section 88I(5). I determine that there are matters as set out in this determination that do not conform with the requirements relating to admission arrangements.

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 timescale is specified by the adjudicator. In this case, I determine that the arrangements must be revised within two months of the date of the publication of this 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 (the objector), about the admission arrangements (the arrangements) for September 2019 for Twynham School (the school), an academy school within Twynham Learning Multi Academy Trust (the trust). The school provides for pupils aged 11 to 18. The objection is to the consultation carried out before the arrangements were changed and to the change to the arrangements to

give a higher priority for children who live in the catchment area over children who attend feeder schools but live outside the catchment area.

2. The school is located in Dorset and the local authority for the area is Dorset County Council. The parties in this objection are the objector, the trust and the local authority.

Jurisdiction

3. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 29 April 2018. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 29 April 2018, supporting documents and subsequent submissions;
 - b. the trust's response to the objection and subsequent submissions and supporting documents;
 - c. the response of the local authority;
 - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2018;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meeting at which the academy trust determined the arrangements; and
 - g. a copy of the determined arrangements.

The Objection

6. The objection is that the trust has changed the order of its oversubscription criteria and moved children who attend a feeder school but live outside the catchment further down the priority list and, in particular, that such children now have lower priority than all children who live in the catchment area. The

objector thinks that the consequence of this is that children who attend a feeder school are unlikely to be allocated a place at the school, unless they also live in the catchment area or meet one of the other higher oversubscription criteria, such as being looked after or having a sibling at the school. The objector argues that this is unfair on families who have sent their children to a feeder school in the expectation that they will have a high level of priority for gaining a place at Twynham School. The objector is also concerned that there is no evidence that some comments made during the consultation period prior to the change were considered by the trust.

Other matters

7. When I reviewed the arrangements I was concerned that they may not conform with the requirements relating to admissions in relation to the definition of looked after and previously looked after children which is set out in a footnote to paragraph 1.7 of the Code and hence was not clear as required by paragraphs 1.4 and 1.8 of the Code. I was also concerned that in the reference in the oversubscription criteria to "*preferred school feeder schools...*" the use of the word preferred was unclear and may not conform with paragraphs 1.4 and 1.8 of the Code.

Background

8. The school became an academy in 2015 within the Twynham Learning Multi Academy Trust. The published admission number (PAN) for the school is 264. The school is usually oversubscribed and the admission figures for 2018 are set out below in paragraph 12.
9. The school's oversubscription criteria determined for admission in 2019 to Year 7 (Y7) are summarised as follows:
 - i) Children who are or who have been in care.
 - ii) Children living within the school's catchment area who will have a sibling(s) attending the school at the time of admission.
 - iii) Children living within the school's catchment area.
 - iv) Children living outside the school's catchment area who will have a sibling(s) attending the school at the time of admission.
 - v) Children who were attending one of the preferred school's recognised feeder schools during the previous year. These are Twynham Primary School, Christchurch Junior School and The Priory School.
 - vi) Children of permanent staff employed at the school.
 - vii) All other children living outside the school's catchment area.
10. Until and for September 2016, the arrangements provided that children living in catchment were prioritised over children living out of catchment but attending feeder schools. In March 2015, the school received an email from a parent of a

child attending a feeder school (and presumably living outside the catchment), saying that he thought the oversubscription criterion was unfair to children attending feeder schools but living outside the catchment area. As a result of this, the trust decided to change the school's admission arrangements. Following consultation, the policy for 2017 was changed so that once siblings had been given priority, children in feeder schools had a higher priority than children in catchment but not attending a feeder school.

11. In March 2017, governors from Twynham Primary School expressed concern that children living in the catchment area of the school no longer had high priority in the oversubscription criteria. Following a review of the arrangements, the trust decided to consult on reverting to the criteria that it had used in 2016 and earlier years. The school accordingly undertook a consultation to change the admission arrangements for 2019 to give a higher level of priority to children living in the catchment area and in doing so to revert to the criteria that had been in place since before 2012.
12. The local authority provided the admission figures for the school for admissions in 2018 as follows:

Criteria	Applications				Allocations			Withd rawn	Total
	Pref 1	Pref 2	Pref 3	Total	Offered Higher Preference	Place Offered	Refused		
S E N	4	0	0	4	0	4	0	0	4
Looked after and previously looked after	4	1	2	7	3	4	0	0	7
Catchment And Sibling	65	1	0	66	1	65	0	0	66
Sibling	27	5	0	32	3	29	0	0	32
Feeder School	100	5	0	105	5	100	0	0	105
Catchment	38	17	2	57	15	42	0	0	57
Staff	1	4	0	5	4	1	0	0	5
Distance	63	193	81	337	231	19	81	6	337
Grand Total	302	226	85	613	262	264	81	6	613

Consideration of Case

13. The objector argues that the change to the order of the criteria is unfair to parents and their children who had selected a primary school on the basis that it was a feeder school for Twynham School. The objector argues that it is unlikely that children living out of the catchment area but attending a feeder school will be allocated places in future years. My jurisdiction is limited to the admission arrangements for September 2019 so I shall limit my comments to admissions for that year in this case. The trust says that, in fact, it is not likely that children living outside its catchment area but attending a feeder school will be unable to gain a place in the school in 2019. The trust says it bases its opinion on experience from previous years. The objector quotes the admission figures for 2018. In that year, 100 places were allocated on the basis of attendance at a feeder school; 42 were allocated to children living in the

catchment area but not attending a feeder school; and 19 (out of 100) out of catchment applicants who did not attend a feeder school, live in catchment, have a sibling at the school or a parent who worked there were also offered places. The objector goes on to speculate that if the places had been allocated under the 2019 arrangements, it seems likely that the group of children who attended a feeder school and were out of the catchment area would have gained a place. However, because they would have a lower priority, there were only 19 other places available which is a relatively small margin.

14. The objector is concerned that the growing numbers of children leaving primary schools in the area over the next few years will reduce the scope for children living outside its catchment to secure a place at the school. The local authority has provided its projections for the next few years as follows:

year	Projected Year 7 cohort for Christchurch pyramid of schools
2017	617
2018	582
2019	642
2020	642
2021	674
2022	656
2023	691

The local authority figures are based on the total of admissions across the four high schools in the Christchurch area, Parkfield, Twynham, The Grange and Highcliffe. I shall comment on these figures below.

15. The objector also makes the point that any parent living out of catchment who applied for admission in September 2017 or 2018 to one of the school's feeder primaries will have done so under the understanding that attending this school would give a high level of priority for Twynham School in due course.
16. The trust responded that, traditionally, the Twynham School over-subscription criteria have given children living in catchment priority over children attending feeder schools but living out of catchment, in line with the Dorset Admissions Policy for the schools for which the local authority is the admission authority. The policy was changed for two years, 2017 and 2018, but when trustees realised the full implication of these changes on what they describe as local children, and which I take to mean children living in the school's catchment area, it was decided to consult on reverting to the original over-subscription criteria, which were in place before the change.
17. The trust said that it sought advice from the local authority at the time of consultation. The local authority advised that it was preferable to prioritise children who lived in the catchment above those who attended feeder schools

but lived outside the catchment area because this was consistent with the other schools in the area, and that the local authority was supportive of the school revising its oversubscription criteria. By reverting to its original criteria the school has come into alignment with the Dorset model for admissions, which is used in other schools in the area.

18. The trust commented on the consultation process and the objector's concern that there was no evidence that some comments at least were considered by the trust. The trust said that all respondents to the consultation received a personal letter and all comments were read by the trustees before the arrangements were determined. It informed me that trustees considered all the points they had read and took them into account when they made their decision. The responses included 17 comments from parents at one primary school who were concerned that their school would no longer be a feeder school. The trustees thought the parents had failed to realise that no changes were planned to the feeder schools and children at feeder schools would continue to receive priority, albeit a lower level than children living in the catchment area and not attending a feeder school. The trust had sent a letter of response and only two parents had responded to this. The school admissions officer had spoken to both those parents in person and believed that this had helped to reassure them and alleviate their concerns.
19. The objector commented that they knew of one person who had written in response to the consultation who had not received a response from the school. There is no explanation for this but the trust was clear that where it had received consultation responses it had replied.
20. The trust noted that it was very unusual not to have room for all children from both catchment and feeder schools. It explained that in 21 years only one child who had sought a place on the basis of attending a feeder school (Priory) but living outside catchment had failed to secure a place at the school or at a higher preference school. The trustees reaffirmed their view that they wished to give priority to serving a traditional area/community identified by the catchment area.
21. The figures in paragraph 14 show the projected numbers across the schools in the area. The numbers fell in 2017 and are projected to increase over the next few years. The trust is required to set its admission arrangements each year, so it will have the opportunity to keep the figures under review as it does this each year.
22. The local authority responded that it is supportive of the changes made as they return the school to a set of admission arrangements that is consistent with other schools in the area that give priority to catchment area children.
23. I have considered the points made by the three parties in this case. I have to decide whether or not the school admission arrangements comply with the requirements made by the Code and related legislation.
24. I first considered the matter of consultation and I have read the minutes of the trustees meeting where the matter was considered and I am satisfied from the evidence that I have received that the school fulfilled the requirements for consultation as set out in paragraphs 1.42 – 1.45 of the Code.

25. The school is permitted in paragraph 1.14 of the Code to have a catchment area and the requirement is that the catchment area is "*reasonable and clearly defined.*" The local authority supplied a map that clearly showed the catchment area and also showed how it adjoins neighbouring school catchment areas. I am satisfied that in this respect the catchment area is both reasonable and clearly defined and thus satisfies the requirements of paragraph 1.14 of the Code.
26. Paragraph 1.15 of the Code permits the selection of a feeder school or schools if the selection of the schools is "*transparent and made on reasonable grounds.*" In this case the school has three long established feeder schools and the selection is clearly transparent and the reasonable grounds are also long established. I am therefore satisfied that in this respect the arrangements comply with the Code.
27. The objector is concerned that in making the change in the order of the oversubscription criteria some families will be disadvantaged and treated unfairly. This is because they had an expectation that whilst not living in the catchment area of the school, by obtaining a place for their child at a feeder school they could be reasonably sure of obtaining a place at the secondary school for their child. I have considered this point and observe that every publicly funded school is required to set its admission arrangements annually and if change is proposed, they must follow the consultation procedure set out in the Code. This gives parents and others the opportunity to comment on proposed changes. It is, of course, for the admission authority to decide what arrangements to adopt in the light of consultation – consultees have no veto on change. It is therefore not possible for any person to predict what admission arrangements will look like in the future and it is unrealistic for a parent to make the assumption that there will be no change while their child is at a school. I also note that the children who are currently in Year 5 at primary school will be beginning high school in September 2019 under the same arrangements for the school that were in place when their cohort began in Reception. I do not consider that the change in the arrangements is treating families unfairly and I do not uphold the objection.
28. I turn now to the other matters I identified when I reviewed the arrangements. All schools must give highest priority to looked after and previously looked after children. The Code provides in a footnote to paragraph 1.7 a definition of looked after children and it is:
- "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..."* The Code also sets precisely what is meant by a previously looked after child. I am in no doubt that the school gives the right level of priority to all children entitled. However, the wording used in its arrangements does not make this clear. This is because the school's arrangements refer to "*Children who are or who have previously been in the care of a local authority. This criterion specifically relates to children with either a care order (full or interim) or who are accommodated under Section 22 of the Children Act 1989.*" This definition is to my mind confused and potentially confusing and unclear in breach of paragraphs 1.4 and 1.8 of the Code and does not match the definition in the Code. It fails to make clear that all previously looked after children (which is wider than children previously in

care) are covered by the requirement.

29. The school's oversubscription criterion v) refer to children "*attending on the preferred school's recognised feeder schools...*" When I reviewed the arrangements, I could not understand what was meant by "preferred" as the arrangements are those only for Twynham school. I considered that, again, this could make the arrangements unclear in breach of paragraphs 14 and 1.8 of the Code. I note that the school has readily undertaken to amend the arrangements in response to my concerns. The Code requires that it do so.

Summary of case

30. I have considered the points raised by the objector and the response made by the trust. I have satisfied myself that the trust has met the requirements of the Code in respect of the consultation concerning change in the arrangements for 2019 and in the requirements for setting a catchment area and selecting feeder schools. I have considered the concern that some families may have been disadvantaged by the change in arrangements. The school is allowed to make changes to its arrangements following consultation. In this case the school has reaffirmed its wish to give priority to local children at the same time it has been clear that it will also give priority to children attending one of its feeder schools before it gives priority to other children on the grounds of distance. I do not think that this approach is unfair and I do not think that parents can have a reasonable expectation that there will be no change to admission arrangements for a secondary school while their child is in a feeder school. I do not therefore uphold this objection.

Determination

31. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the academy trust for Twynham School in Dorset for admissions in September 2019.
32. I have also considered the arrangements for 2019 in accordance with section 88I(5). I determine that there are matters as set out in this determination that do not conform with the requirements relating to admission arrangements.
33. 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 timescale is specified by the adjudicator. In this case, I determine that the arrangements must be revised within two months of the date of the publication of this determination.

Dated: 26 July 2018

Signed:

Schools Adjudicator: David Lennard Jones