



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3466

Objector: A parent

Admission Authority: The Skinners' School Academy Trust

Date of decision: 14 September 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 for September 2019 determined by The Skinner's' School Academy Trust for The Skinners' School, 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 31 October 2018.

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 The Skinners' School (the school), an academy grammar school for boys aged 11 to 18, for September 2019.
2. The local authority for the area in which the school is located is Kent

County Council (the local authority). The local authority is a party to this objection. Other parties to the objection are The Skinners' School Academy Trust (the admission authority) and the objector.

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 academy 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 his/her objection to these determined arrangements on 15 May 2018. The objector has asked to have his/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 his/her name and address to me. 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.

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 15 May 2018;
 - b. the admission authority's response to the objection and supporting documents;
 - c. the comments of the local authority on the objection and supporting documents;
 - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2018;
 - e. maps of the area identifying relevant schools;
 - f. Details of the consultation on the arrangements;
 - g. copies of the minutes of the meeting at which the admission authority determined the arrangements; and
 - h. a copy of the determined arrangements.

The Objection

6. The following issues are raised by the objector:
 - a. Whether the consultation on proposed changes to the admission arrangements carried out by the school complied with the requirements of paragraphs 1.42 to 1.45 of the Code.
 - b. Whether the definition of siblings complies with paragraph 1.11 of the Code.
 - c. Whether the school's catchment area complies with paragraph 1.14 of the Code.
 - d. Whether the priority given to looked after and previously looked after children complies with the requirements of paragraph 1.20 of the Code.

Other Matters

7. Paragraph 2.17 of the Code states "*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group*". The provisions in the admission arrangements for 2019 may not set out clearly the process required by paragraphs 2.17 to 2.17B of the Code.
8. Paragraph 2.4 of the Code states that the admissions authority "***must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria*". The SIF asks for information, for example the schools attended in the last two years and details of two parents/guardians, that has no bearing on the issue of whether the child is in receipt of free school meals.
9. The admission arrangements do not include information relating to waiting lists as required by paragraph 2.14 of the Code.
10. Paragraph 14 of the Code states: "*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*".
 - a. It may not be clear to parents what the admission arrangements mean by "*grammar assessment*" in the phrase "*all pupils must have gained a grammar assessment through the Kent PESE*". I note that the wording has changed from the wording "*gained a Selective Score*" which appears in the 2018 admission arrangements.
 - b. It may not be clear to parents what the admission arrangements

mean by “*scoring 360 or over*”. For example, what the test referred to is and whether this is an aggregate score.

- c. The method for measuring nearness to children’s homes describes in some detail a process using NLPG address points and then, in the following paragraph, refers to measurements provided by the local authority. It is not clear whether these are the same or different processes.

11. The definition of “looked after child”, which was not compliant with the Code as it was set out in the consultation documents.

Background

12. The Skinners’ School is a grammar school for boys aged 11 to 18 in Tunbridge Wells, Kent. The school is an academy within a single school academy trust, The Skinners’ School Academy Trust whose executive functions are carried out by the school’s governing board. School admissions are dependent on performance in the local authority’s 11+ process, known as the “Kent Test”. This requires potential applicants to sit three test papers. Each paper will be scored and scores in each individual test and an aggregate score will be produced. Each sitter will be assessed as gaining or not gaining a “grammar assessment”. This will be an aggregate score of no less than X with no single score below Y. The actual scores required to be eligible for a place in a Kent grammar school will vary from year to year. There is also a process whereby a sitter who does not achieve the necessary score may nevertheless be assessed as suitable for grammar school through an assessment by the Head Teacher Assessment Panel. All grammar schools in Kent operate within this system.
13. Up to and including admissions for September 2018 the school’s oversubscription criteria for admission to Year seven (Y7) required all applicants to achieve a “selective score” which apparently was intended to mean the same as achieving a “grammar assessment”. Having achieved that threshold the oversubscription criteria provided firstly for the admission of looked after and previously looked after children, then for up to ten pupils registered for free school meals, ranked according to their aggregate test scores, then other applicants ranked according to their aggregate test scores. In essence, for most places, candidates were ranked according to their aggregate test scores with priority given to those who scored highest. The Published Admission Number (PAN) for 2018 was 150. For entry in September 2018 there were 734 preferences for the school in total of which 680 gained the “grammar school assessment”. Of these 195 were first preferences of which 181 gained the “grammar school assessment”.
14. The admission arrangements for September 2019 were recommended for determination by the admission authority’s Education Committee on

21 February 2018 and agreed by the governing board by electronic means as noted in the minutes of the governing board meeting on 20 March 2018. The new arrangements make significant changes to the oversubscription criteria. I will summarise these here in order to demonstrate the change and will set the criteria out in full below. As before, all potential applicants sit the Kent Test and must gain the “grammar school assessment” and the highest priority is given to looked after and previously looked after children who do so.

15. After looked after and previously looked after children the next category is those applicants resident within a catchment area referred to as the West Kent Area. I will consider the catchment area in more detail below. Those resident in the West Kent Area are prioritised firstly by up to eight applicants registered for free school meals who are ranked according to their aggregate test score. Next come up to 132 applicants whose aggregate score in the Kent Test is 360 or over. Within that group, applicants are ranked by (a) those with siblings in the school, (b) sons of certain members of staff (in accordance with the requirements of paragraph 1.39 of the Code), and (c) those living nearest to the school. Finally up to 20 places will be offered to applicants resident in the Outer Area, being outside the Kent Area but within the mainland UK. Two of these places are for pupils registered for free school meals, ranked according to aggregate test score and the remaining 18 for pupils scoring 360 or over, who in turn are ranked using the same criteria as those scoring 360 or above who reside in the West Kent Area.
16. The effect of this is that the majority of admissions will be based on gaining a pre-determined score of 360, residence within a catchment area, siblings at the school, sons of staff and distance. It is likely that the introduction of sibling, sons of staff and distance criteria will lead to a significant difference in the geographical area from which boys who gain places at the school are drawn.
17. I set out below the 2019 oversubscription criteria:

“B. Over-subscription

Skinner’s School is part of the Co-ordinated Admission Scheme, which is administered by the Kent Local Authority. All pupils must have gained a grammar assessment through the Kent PESE.

Before the application of oversubscription criteria, children with a statement of special educational needs, or an Education, Health and Care Plan, which names the school, will be admitted. As a result of this, the published admission number will be reduced accordingly.

Where the number of applicants for admission exceeds the number of places available, the following criteria will be applied, in the order of priority set out below:

1. *Children in Local Authority Care or Previously in Local Authority Care – a 'looked after child' or a child who was previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order. 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).*
2. *Up to 140 places will be offered to children in the West Kent Area, which covers the area within three miles of the school measured by straight line distance, plus the following named parishes:*

<i>Bidborough</i>	<i>Brasted</i>	<i>Brenchley</i>
<i>Capel</i>	<i>Chevening</i>	<i>Chiddingstone</i>
<i>Cowden</i>	<i>Dunton Green</i>	<i>Edenbridge</i>
<i>Goudhurst</i>	<i>Hadlow</i>	<i>Hever</i>
<i>Hildenborough</i>	<i>Horsmonden</i>	<i>Ightham</i>
<i>Kemsing</i>	<i>Lamberhurst</i>	<i>Leigh</i>
<i>Otford</i>	<i>Paddock Wood</i>	<i>Pembury</i>
<i>Penshurst</i>	<i>Plaxtol</i>	<i>Riverhead</i>
<i>Rustall</i>	<i>Seal</i>	<i>Sevenoaks</i>
<i>Sevenoaks Weald</i>	<i>Shipbourne</i>	<i>Shoreham</i>
<i>Southborough</i>	<i>Speldhurst</i>	<i>Sundridge with Ide Hill</i>
<i>Tonbridge</i>	<i>Tunbridge Wells</i>	<i>Westerham</i>

- a) *Up to 8 places to pupils, from the defined West Kent Area, registered in that academic year for Free School Meals. Parents wishing to apply under this criterion must ensure they complete the attached Supplementary Information Form and return it to the school by 31 October in the year of application. Parents must also complete an application (online or paper Secondary Common Application Form) naming the school, otherwise their child cannot be considered for a place. (In the event that there are more than 5 valid applications in this category, applicants will be ranked according to their aggregate scores in the Kent Test, the highest score being given the highest rank. If there are fewer than 5 valid applications in this category the remaining places will be offered under criterion b below.)*
- b) *Up to 132 places to other pupils from the defined West Kent Area, prioritised as follows:*
 - (i) *those living in the West Kent Area scoring 360 or over, ranked in order of a) siblings attending the*

school at the time of application; b) sons of members of staff with at least two years' service at the time application for admission is made, or if the member of staff has been recruited to fill a vacant post for which there is a demonstrable skill shortage; c) those living the shortest distance from the school.

In the event of there not being 132 scoring 360 or over:

(ii) those living in the West Kent Area scoring under 360, ranked in order of a) siblings attending the school at the time of application; b) sons of members of staff with at least two years' service at the time application for admission is made, or if the member of staff has been recruited to fill a vacant post for which there is a demonstrable skill shortage; c) those living the shortest distance from the school.

3. Up to 20 places will be offered to children in the Outer Area, which is defined as being outside the West Kent Area described above, but within the mainland of the United Kingdom.

a) Up to 2 places to pupils, from the Outer Area, registered in that academic year for Free School Meals. Parents wishing to apply under this criterion must ensure they complete the attached Supplementary Information Form and return it to the school by 31 October in the year of application. Parents must also complete an application (online or paper Secondary Common Application Form) naming the school, otherwise their child cannot be considered for a place. (In the event that there are more than 5 valid applications in this category, applicants will be ranked according to their aggregate scores in the Kent Test, the highest score being given the highest rank. If there are fewer than 5 valid applications in this category the remaining places will be offered under criterion b below.)

b) Up to 18 places to pupils from the defined Outer Area, prioritised as follows:

(i) those living in the defined Outer Area scoring 360 or over, ranked in order of a) siblings attending the school at the time of application; b) sons of members of staff with at least two years' service at the time application for admission is made, or if the member of staff has been recruited to fill a

vacant post for which there is a demonstrable skill shortage; c) those living the shortest distance from the school.

In the event of there not being 18 scoring 360 or over:

- (ii) *those living in the defined Outer Area scoring under 360, ranked in order of a) siblings attending the school at the time of application; b) sons of members of staff with at least two years' service at the time application for admission is made, or if the member of staff has been recruited to fill a vacant post for which there is a demonstrable skill shortage; c) those living the shortest distance from the school."*

Consideration of Case

The Consultation

18. Paragraphs 1.42 to 1.44 of the Code deal with consultations which are required when an admission authority proposes to change its admissions arrangements. The admission authority consulted between 19 December 2017 and 31 January 2018, which meets the length and timeframe prescribed by the Code. The consultation documentation published on the school's website set out the existing admission arrangements and the arrangements proposed for September 2019. The nature of the changes was briefly summarised. Details were provided as to how comments or objections could be sent to the admission authority. The consultation documents were published on the school's website and sent to a wide range of consultees. I find that the consultation was compliant with the requirements of the Code. I will consider some specific issues raised by the objector below.
19. In the objection it is pointed out that the proposed arrangements did not include a definition of "siblings". The Code requires publication of "a copy of [the admission authority's] full proposed admission arrangements" and so a definition of "siblings" should have been included. However, the determined arrangements do include a definition of "sibling" which I find is not controversial and the objector has not raised any concerns with the definition itself. I do not find that this invalidates the consultation.
20. A further document, prepared by the headmaster, was added to the consultation documentation in January 2018, in response to points raised by objections received at that stage. This document gives further background information, including detail of the rationale for the change. This document was not made available for the full length of the consultation and was available for less than the six week period required by the Code. However, I find that although it provides useful

background information this information was not essential to allowing the consultees sufficient information to make informed responses. The proposed changes were clearly set out and it was on those changes, rather than the reasons underlying them, that consultation was required.

21. The objector also complains (subsequent to the original objection) that the responses to the consultation were not published. I find that there was no obligation to publish responses. The consultation closed on 31 January 2018 and there would be no purpose in publishing responses after the opportunity to comment had passed. The admission authority considered the responses (and made some amendments to the proposed arrangements, for instance by adding further parishes to the West Kent Area as a result of comments made).

22. I do not uphold the aspect of the objection relating to the consultation.

Catchment Area

23. Paragraph 1.14 of the Code states:

*“1.14 Catchment areas **must** be designed so that they are reasonable and clearly defined. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school.”*

The school operates two catchment areas The Outer Area, as described above, covers all of the mainland UK outside the West Kent Area. It is unlikely that any application for admission would be made for a child resident outside the Outer Area. In effect this is the same as allowing applications from anywhere outside the West Kent Area and consequently I find there is no difficulty with this catchment area.

24. The extent of the West Kent Area is clearly defined by a list of parishes which includes the parishes added following the consultation (although I note these additional parishes are not included on the map supplied to me by the school). In addition the West Kent Area also includes a circle drawn with a radius of 3 miles around the school.

25. It is clear from the map provided that these parishes all lie entirely within the county of Kent and are, in the south and west, coterminous with the boundaries of the county. The circle around the school includes a small part of the county of East Sussex. The objector states that this discriminates against residents of East Sussex (presumably those who live outside the circle around the school). The objector points out, correctly, that under the previous arrangements the place of residence was irrelevant to an applicant's chance of admission, which depended solely on their score in the Kent Test.

26. An admission authority is entitled to have any oversubscription criteria it chooses, provided they comply with the provisions of the law and the

Code. Where a school is oversubscribed, as the school is, any change to the arrangements will inevitably lead to some pupils having a greater chance of being admitted and some a lesser chance.

27. The admission arrangements for September 2019 do favour residents of the listed Kent parishes but do not favour all Kent residents over those resident outside Kent. In addition some who are resident outside Kent are within the West Kent Area and 20 places are reserved for those resident outside the West Kent Area. I am informed by the school, and accept, that over recent years the average number of children admitted to the school who were resident in East Sussex was approximately 20. In addition to the 20 places reserved for residents in the Outer Area some East Sussex residents are likely to be admitted as they are resident within the circle around the school. The admission arrangements do not solely prioritise Kent residents over residents elsewhere.
28. Both the school and the local authority have set out the rationale for the change. Clearly this is to a large extent driven by the local authority's duty to ensure that there are sufficient school places for the children in its area and the school's plans to expand its roll to five forms of entry and improve its facilities. The local authority, in order to assist it in meeting its duty, are offering significant basic needs funding support to the school for capital works. The school also point to restoring a greater community feel to the school by prioritising siblings, those living closer to the school and sons of staff.
29. The local authority point out that a steep rise in numbers of applicants from further afield applying to the school and other grammar schools admitting by highest scores, had led to concerns from local residents about access to local schools and concerns about access of children from disadvantaged backgrounds to such schools.
30. I accept that some applicants from outside the West Kent Area, including residents of other parts of Kent, of East Sussex and of other local authorities such as Orpington and Bromley will, under the admission arrangements for 2019, have less chance of admission than under the previous arrangements. However, on balance, I find the admission arrangements to be reasonable and consequently I do not uphold the objection on this point.

Looked after and previously looked after children

31. The objector rightly states that the proposed admission arrangements set out in the consultation documentation do not comply with paragraph 1.20 of the Code in that looked after and previously looked after children not resident in the West Kent Area do not have priority over such children living in the Outer Area. The school acknowledged this following the consultation and the determined arrangements have given all looked after and previously looked after children who reach

the grammar school standard priority over all others. I find that the admission arrangements comply with paragraph 1.20 of the Code and consequently I do not uphold the objection on this point.

Siblings

32. In addition to the issue relating to the lack of a definition of siblings referred to above the objector suggests that the arrangements breach paragraph 1.9 j) of the Code by giving priority to siblings. Paragraph 1.9 j) concerns “*grammar schools that rank all children according to a pre-determined pass mark and then allocate places to those who score highest*”. The admission arrangements do have a “pre-determined pass mark”, the “grammar assessment” which applies to all children. For some, but not all, criteria there is also a “*pre-determined pass mark*” of 360. However paragraph 1.9 j) goes on to state “**and then allocate places to those who score highest**” (my emphasis). The admission arrangements do not do this (although the previous arrangements did do so) and so giving priority to siblings is not in breach of paragraph 1.9 j). Consequently I do not uphold the objection on this point.

Other Matters

Admissions out of normal age group

33. Paragraphs 2.17, 2.17A and 2.17B of the Code set out specific requirements for the process for requesting admission out of the normal age group, including a requirement that the process is made clear. The process set out in the admission arrangements does not fully comply with this requirement, for example the matters which must be taken into account (paragraph 2.17A) are not set out. Consequently I find that in this respect the arrangements do not comply with the requirements of the Code.

Supplementary Information Form

34. Paragraph 2.4 of the Code states that the admissions authority “**must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria**”. The supplementary information form (SIF) asks for information, for example the schools attended in the last two years and details of two parents/guardians, that has no bearing on the issue of whether the child is registered for free school meals. Consequently I find that the SIF does not comply with the provisions of the Code. The school rightly point out that they do not include requests for information that is prohibited by paragraph 2.4 and have helpfully expressed a willingness to remove requests for information that has no direct bearing on whether or not a child is registered for free school meals.

Waiting lists

35. The admission arrangements do not include information relating to waiting lists as required by paragraph 2.14 of the Code and consequently do not comply with the provisions of paragraph 2.14.

Paragraph 14 matters

36. Paragraph 14 of the Code states: *“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”*.
- a. It may not be clear to parents what the admission arrangements mean by *“grammar assessment”* in the phrase *“all pupils must have gained a grammar assessment through the Kent PESE”*. The adjudicator notes that the wording has changed from the wording *“gained a Selective Score”* which appears in the 2018 admission arrangements. Consequently the admission arrangements do not comply with the provisions of the Code. The local authority have provided me with helpful clarification on this point, which has been copied to the school. The school have offered to change the wording back to *“gained a selective score”* but I do not consider this would provide any useful clarification, although an explanation based on the local authority’s points would be helpful.
 - b. It may not be clear to parents what the admission arrangements mean by *“scoring 360 or over”*. For example, what the test referred to and whether this is an aggregate score. Consequently I find that this wording does not comply with the provisions of the Code. The school have offered to change the wording to clarify the meaning, which is helpful.
 - c. The method for measuring nearness to children’s homes describes in some detail a process using NLPG address points and then, in the following paragraph, refers to measurements provided by the local authority. It is not clear whether these are the same or different processes. Consequently I find that this wording does not comply with the provisions of the Code. The school and the local authority have clarified that the measurements are those undertaken by the local authority, the wording will require amendment to make this clear.
 - d. I find that the definition of “looked after child” as set out in the determined arrangements (as opposed to the consultation documentation) is compliant with the provisions of the Code.

Determination

37. 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 Skinners' School Academy Trust for the Skinners' School, Kent.
38. 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.
39. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 31 October 2018, that being the closing date for secondary school applications.

Dated: 14 September 2018

Signed:

Schools Adjudicator: Tom Brooke