



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3529

Objector: Coventry City Council

Admission authority: Tove Learning Trust for Grace Academy Coventry

Date of decision: 11 June 2019

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2020 determined by Grace Academy Trust for Grace Academy Coventry.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by Coventry City Council about the admission arrangements (the arrangements) for Grace Academy Coventry (the school), an academy school for pupils aged 11 to 18 for September 2020. The objection is to the reduction in the published admission number from 210 to 170.
2. The local authority for the area in which the school is located is Coventry City Council (the local authority) which is also the objector and a party to the objection. The other parties are the governing board of the school and Tove Learning Trust, which is a multi-academy trust and which took over the responsibilities of Grace Academy Trust on 1 April 2019 thus becoming the academy trust for the school and its admission authority.

Jurisdiction

3. The terms of the Academy agreement between the multi-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. It was on this basis that these arrangements were determined by Grace Academy Trust which was the admission authority for the school on the date by which the law required the arrangements to be determined. The local authority submitted the objection to these determined arrangements on 2 April 2019. 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 local authority's form of objection dated 2 April 2019 and supporting documents;
- b) a copy of the determined arrangements;
- c) copies of the minutes of meetings at which Grace Academy Trust determined the arrangements;
- d) the school's response to the objection and supporting documents;
- e) the school's responses to my other enquiries;
- f) maps of the area identifying relevant schools;
- g) the academy funding agreements between Grace Academy Trust and Tove Learning Trust and the Secretary of State; and
- h) information about the design and construction of the school from the internet.

6. I have also taken account of information received during a meeting (the meeting) I convened on 3 June 2019 at the school attended by representatives of the local authority, the admission authority and the school.

The Objection

7. The local authority said that the decision to reduce the published admission number (PAN) from 210 to 170 was prejudicial to its duty to secure sufficient school places in Coventry in September 2020.

Other Matters

8. When I considered the arrangements as a whole it appeared to me that the following aspects of the arrangements did not, or may not, conform with requirements:

- the statement concerning the admission of children outside of the normal age group did not appear to meet the requirements of paragraph 2.17 of the Code;
- statements in the arrangements concerning the tie-breaker appeared not to meet the requirements in paragraphs 14 and 1.8 of the Code for the admission arrangements and the oversubscription criteria to be clear; and
- the arrangements did not include a map or other definition of the catchment area and therefore appeared unclear and not to meet the requirements of paragraphs 14 and 1.8 of the Code.

Background

9. The school is situated on the north eastern edge of Coventry, its site is adjacent to the M6 near the junction with the M69. The school became an academy in 2008 and moved into new buildings in 2010. Until 1 April 2019 the school was in the Grace Academy Trust with two other secondary schools, on that date Tove Learning Trust assumed responsibility for the management of all three schools through a deed of variation and novation. The Tove Learning Trust is now the admission authority for the school.

10. The Code requires that admission arrangements for 2020 were set by 28 February 2019 when the Grace Academy Trust was the admission authority for the school. On 14 February 2019 the minutes of the Grace Academy trustee's finance committee record that it had "*considered and approved the amended admissions policy.*" The minutes of the Grace Academy trustees' governing board of 27 March 2019 refer to ratifying the decision to reduce the PAN from 210 to 170. Taken together I am satisfied that the Grace Academy Trust determined the arrangements as required.

11. The oversubscription criteria for the school can be summarised as:

- a. Looked after and previously looked after children.
- b. Children living in the catchment area with a sibling at the school.
- c. Other children living in the catchment area.
- d. Children not living in the catchment area with a sibling at the school.
- e. Other children.

Consideration of Case

The reduction in PAN

12. The local authority provided me with a document called “*One Strategic Plan 2018 - 2022*” which gives details of school place planning in Coventry. This document predicted that there would be a shortage of secondary school places across the city by the end of this period. The local authority said that in this context it had objected strongly to the proposal to reduce the PAN when it was consulted by the former trust on the proposed arrangements. The local authority said that the decision to reduce the PAN prejudiced its “*ability to secure adequate places for the expected future pupils in Coventry.*”

13. In response to the objection the admission authority said “*When Grace Academy, Coventry moved into its new build premises in 2008 [sic], there was no assessment of its capacity and for unknown reasons the net capacity assessment for the predecessor school (and premises) was simply carried forward.*

A recent review of the net capacity utilising the DfE [Department for Education] assessment tool has noted that there is insufficient classroom and other teaching spaces to support a PAN of 210. Accordingly, having regard to its duty to provide a safe learning environment, the Trustees determined that the PAN should be reduced to 170 and duly consulted on that option.”

14. The documents accompanying the objection from the local authority included two versions of the Department for Education spreadsheet used to calculate the “net capacity” of secondary schools, one completed by the local authority and one completed by the school. These spreadsheets had been the focus of discussion between the two parties before the PAN was reduced. These calculations lead to a maximum and minimum number of work places within which the “net capacity” falls and gives an “indicated admission number”. The results of these calculations is shown in the table below and on this basis the local authority has said the school should be able to admit up to 205 children a year.

	Minimum	Maximum	Net Capacity	Indicated Admission Number
Local Authority	1014	1127	1127	205
School	872	969	969	176

15. The Code refers to the PAN in paragraph 1.3 of the Code where it says “*Own admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN. For a community or voluntary controlled school, the local authority (as admission authority) **must** consult at least the governing body of the school where it proposes either to increase or keep the same PAN. All admission authorities **must** consult in accordance with paragraph 1.42 below where they propose a decrease to the PAN. Community and voluntary controlled schools have the right to object to the Schools*

*Adjudicator if the PAN set for them is lower than they would wish. There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.”*

16. Furthermore, in paragraph 3.3b the Code says that “*objections about own authority admission’s decision to increase or keep the same PAN*” cannot be made to the schools adjudicator. It follows from these two paragraphs of the Code that objections can only be made to the reduction in PAN at the time when it is reduced. Thereafter, the admission authority is able to retain the PAN at the lower level with no scope for objections to be made to this. The only means for its subsequent increase arises where the admission authority decides to increase it.

17. Each year the DfE collects the capacity of all schools in England through a process called the School Capacity Survey. This survey is used by the DfE to decide the “basic need” funding (if any) each local authority will receive to build additional school places. This survey says that for academies the capacity is not normally based on the net capacity method used for maintained schools, but on what is recorded in the funding agreement. Academy funding agreements can be found in the workforce and finance section of the school performance tables.

18. I looked at the various versions of the funding agreement for the school. The earliest document is dated 6 June 2007 and states that the planned size of the academy is 1350 pupils. Another dated 10 September 2008 also says that the planned size of the school was 1350. From these funding agreements it was apparent that the school did not move into its current buildings until 2010, not in 2008 as I was told by the school. Further research into the history of the school established that it replaced another school under the City Academy programme and that the architects were briefed to provide a school for 1350 pupils with a gross area of 12,000 square metres which is a generous size compared to the area guidelines for schools in use today.

19. There were a number of revisions to the original funding agreement which I was told by the school were “*purely because the DfE introduced new model funding agreements that Grace Academy trustees considered and adopted*”. In none of the revisions could I find any change to the capacity until the version dated 1 April 2019 associated with the deed of variation and novation transferring the school from Grace Academy Trust to Tove Learning Trust. In this document the capacity is given as 1144 including 140 places in the sixth form.

20. The history of the school and the funding agreements were discussed at the meeting. None of the school representatives had been in post when the school opened and could not confirm whether or not the school had been built to the architect’s brief; it was suspected by them that not all of the proposed building had been completed, but no evidence was available to support this.

21. Having considered the above factors I am taking the capacity of the school to be 1144 as stated in the most recent agreement between Tove and the Secretary of State. This will be the figure used by the DfE to assess any need to fund additional places in the

area and it was concern over meeting the demand for places which prompted the local authority's objection to these arrangements.

22. At the meeting the school provided me with details of the current number on roll and the local authority confirmed their earlier written evidence that 196 places have been offered for September 2019. The table below shows how these figures would allow up to the former PAN of 210 to be admitted in 2020 without exceeding capacity for Years 7 to 11 which is 1004 (1144 minus the 140 sixth form places).

Year	7	8	9	10	11	Total
June 2019	169	107	80	85	107	548
Sept 2019	196	169	107	80	85	637
Sept 2020	210	196	169	107	80	762

23. It would be a simple matter for the school and local authority to extend this table to establish whether and, if so when, either the admission authority will need to reduce the PAN from 210 in order to keep within the capacity, or additional accommodation will be needed if the forecast high level of need is maintained.

24. In my view it is not reasonable for the PAN for 2020 to be reduced from 210 to 170 and I uphold the objection.

Other Matters

25. Paragraph 2.17 of the Code says "*Admission authorities must make clear in their arrangements the process for requesting admission outside of the normal age group*". While the arrangements had a section headed "*Requests for admission outside of the normal age group*" which explained how the admission authority would take such requests into account, it did not say what the process of requesting such admission was and so does not comply with the Code.

26. Paragraph 14 of the Code says "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" Paragraph 1.8 says "*Oversubscription criteria **must** be reasonable, clear, objective ... Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*"

27. Paragraph 6.3 in the arrangements has the heading "*Tie break*" it says "*In the case of 2 or more applications that cannot be separated by the oversubscription criteria outlined above, the school will use random allocation as a tie breaker to decide between applicants.*" The oversubscription criteria are not "above" that statement, but appear two pages after it

where in criterion (e) it says “*Children by reference to the distance to the preferred Academy. If it is not possible to meet all of the requests in any one of the categories described above, the City Council will prioritise the requests by reference to distance.*” A similar statement is repeated under the heading “*Distance*” later in the arrangements with the addition that lots will be drawn if distances are equal.

28. In my view the description of how distance and random allocation are used to differentiate between applicants is not clear, nor is the role of the City Council in deciding priority for places at the school which is the responsibility of the admission authority. I find that this aspect of the arrangements does not conform with the Code.

29. Paragraph 1.14 of the Code says “*Catchment areas **must** be designed so that they are reasonable and clearly defined*”. There is no map or other definition of the catchment area in the arrangements or elsewhere on the school’s website and so I find that the arrangements do not conform with the Code in this respect.

30. When I raised these matters with the admission authority it undertook promptly to address them.

Summary of Findings

31. The objection was that if the PAN reduced from 210 to 170 in 2020 then the local authority may not be able to offer places to all children in Coventry that year. The school said that it did not have the capacity to offer 210 places in 2020. The capacity of an academy is that stated in the funding agreement, in this case as recently as 1 April 2019. Comparing this capacity with the number of children currently on roll and the expected intake in September 2019 shows that the school has the capacity to admit 210 children in September 2020. I find that it is not reasonable for the school to reduce the PAN to 170 for September 2020 and I uphold the objection.

32. I also find that the arrangements do not conform with the Code in the three other ways set out above.

Determination

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2020 determined by Grace Academy Trust for Grace Academy Coventry.

34. 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.

35. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 11 June 2019

Signed:

Schools Adjudicator: Phil Whiffing