



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA3498

**Objector:** A member of the public

**Admission authority:** The Priory Federation of Academies Trust for Priory Ruskin Academy, Grantham, Lincolnshire

**Date of decision:** 26 July 2019

## 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 2020 determined by The Priory Federation of Academies Trust for Priory Ruskin Academy, Grantham, Lincolnshire.**

## 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 member of the public, (the objector), about the admission arrangements (the arrangements) for Priory Ruskin Academy, Grantham (the school), an academy for children age 11-18 for September 2020. The objection is in several parts and primarily concerns the clarity and complexity of the arrangements.
2. The local authority (LA) for the area in which the school is located is Lincolnshire County Council. The LA is a party to this objection. Other parties to the objection are the academy trust (the trust) and the objector.

## 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. These arrangements were determined by the trust, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 7 March 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.

## 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 7 March 2019 and subsequent comments;
  - b) the trust's response to the objection and supporting documents;
  - c) the comments of the LA on the objection and supporting documents;
  - d) the LA's composite prospectus for parents seeking admission to schools in the area in September 2019;
  - e) a map of the area identifying relevant schools;
  - f) confirmation of when consultation on the arrangements last took place;
  - g) copies of the minutes of the meeting at which the academy trust determined the arrangements; and
  - h) a copy of the determined arrangements.

## The Objection

6. The objection contains the following parts:
  1. The arrangements are so complex that parents are unlikely to be able to assess the likelihood of a successful application. This is unclear and the objector considers that this contravenes paragraph 14 of the Code which says that *"admission authorities must ensure that 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"*.
  2. There is so little detail given about the operation of the ten per cent selection by aptitude that this may breach the Code by being unclear and not therefore complying with paragraph 14 quoted above.

3. It is not possible to assess whether the aptitude selection complies with the requirements of the Code by being a genuine test of aptitude rather than a general test of academic ability as required in paragraphs 1.31 and 1.32. Paragraph 1.31 says “ *tests for all forms of selection must be clear, objective and give an accurate reflection of the child’s ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test providing that the test is a true test of aptitude or ability.*” Paragraph 1.32 says that “*admission authorities must: a) ensure that tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned and not for ability; b) ensure that tests are accessible to children with special educational needs.....; and c) take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on 31 October.....*”
  
4. It is not possible to be confident that the testing is procedurally fair in compliance with paragraph 14, because there is no offer of catch up testing dates to those children who are unwell on the day of the test, or who move to the area after the test but before the national deadline of 31 October each year. The lack of such catch up testing may have a disproportionate impact on services children and traveller children.
  
5. It is possible that in the operation of ranking and waiting lists there are, in effect, multiple rankings (for aptitude places and for each zone) and that this breaches the requirement of the Code (section 15 e) that the admission authority provides the LA with a single ranked list to facilitate the operation of co-ordination.

## Background

7. This 11-18 school with specialisms in sport and the visual arts became an academy in 2010 within the Priory Federation of Academies Trust. The school has a published admission number (PAN) of 210 for Year 7 in 2020. Priority for up to ten per cent (21) of these places is given on the basis of aptitude and with a maximum of 11 places for those with an aptitude for sports and 10 places for those with an aptitude for the visual arts. The PAN for the sixth form is 20. The school is usually oversubscribed and for applications in 2019 the LA supplied the following information about preferences:

School	Pref 1	Pref 2	Pref 3	Pref 4	Total
The Priory Ruskin Academy	306	281	85	0	672

The school was judged by Ofsted to be outstanding in its most recent inspection in 2017.

8. I have summarised the following admission arrangements at Year 7:
  - a. looked after children or previously looked after children
  - b. applicants who achieve the minimum standards needed for admission on the basis aptitude for sport or visual arts

In the event that more than 11 applicants achieve the minimum standard in sport, the 11 places will be offered to the applicants with the highest scores in the assessment. In the event that more than 10 applicants achieve the minimum standard in visual arts, the 10 places will be offered to the applicants with the highest scores in the assessment. Any remaining applicants will then be considered along with all other applicants using the criteria in paragraphs c to f below. In the event that fewer than 11 (sport) or 10 (visual arts) applicants achieve the minimum standard, they will all be admitted and the remaining places in that specialism will then be made available to applicants for the other specialism. If fewer than a total of 21 places are awarded to applicants who meet the minimum standard in either assessment, the places will be made available to other applicants using the criteria in paragraph c to f below.

- c. The trust will offer the other places to applicants living within five concentric zones centred on the academy. Each applicant will be allocated to a zone using the straight-line distance from their home to the academy. The following proportions will be used for each zone:

zone 1: living less than 1 mile from the academy – 34%

zone 2: living 1 mile or more but less than 1.5 miles – 34%

zone 3: living 1.5 miles or more but less than 2 miles – 15%

zone 4: living 2 miles or more but less than 8 miles – 11%

zone 5: living 8 miles or more from the academy – 6%

In the event of more applications than places in any zone, then criteria d to f below will be used to allocate places. In each zone, if there are fewer applications than places, all applicants will be admitted and the remaining places, together with any places remaining in other zones at the end of the process, will be allocated at random to all remaining applicants from all zones by an independent person.

- d. siblings of pupils who are on the roll of the academy at the time of the application
      - e. children of a member of staff of the academy who has been employed at the academy for two or more years at the time of the application

In the event of more applicants than places under criteria d and e above, children living nearest to the academy have priority, using criterion f.

- f. children who live nearest to the academy measured by the straight-line distance from the Post Office address point of the academy's main entrance to the Post Office address point of the child's home. In the event that two or more applicants live the same straightline distance from the academy, the place or places will be allocated at random by an independent person.

The objection does not refer to sixth form admissions so I have not included the additional details from the arrangements.

## Consideration of Case

9. The objector has split his objection into several parts and I shall deal with each part in turn. The first part is that the arrangements are so complex that parents are unlikely to be able to assess the likelihood of a successful application, as a result the arrangements are not clear and it is asserted that this contravenes paragraph 14 of the Code referred to above and which requires arrangements to be "clear".

10. The trust responded by saying that it opened as an academy in 2010. When it did so, the trust was committed to ensuring that its admissions policy and the arrangements for the academy were not only compliant, but also had the ongoing support of the LA. Indeed, the admissions arrangements presented for the school are those constructed following discussions with the LA's admissions team and taking account of the team's guidance. Parents applying for a place for their child at the school know that they are applying for one of a number of places in each zone; the school says that it is not aware of any misinterpretations of this. The admissions arrangements set out the method of allocating places. The LA confirmed that it believed that the arrangements comply with the Code.

11. I have considered the objection and while I would agree that the school's admission arrangements are more complex than those of many other schools, I do not find them either difficult to understand or lacking in clarity. Paragraph 14 of the Code says that parents should be able to understand easily how places are allocated. It does not, however, say that a parent should be able to "*assess the likelihood of a successful application*" which is the point that the objector makes. It is not difficult for a parent to work out which zone he or she resides in and hence to know roughly how many places there will be for children living in his or her area. The parent will not know how many applications are being made and so will not know what the probability of obtaining a place is likely to be but this is information that is not known by anyone until after the closing date for applications. The objector suggests that it might be helpful to provide information from previous years but whilst I agree this might be helpful, it is not a requirement of the Code. I do not therefore uphold this aspect of the objection.

12. The next aspect of the objection is that there is so little detail given about the operation of the ten per cent selection by aptitude that this may breach the Code by being unclear and thus not be compliant with paragraph 14 quoted above. The objector goes on to say that it is not possible to assess whether the aptitude selection complies with the requirements of the Code by being a genuine test of aptitude rather than a general test of academic ability as required in paragraphs 1.31 and 1.32 quoted above.

13. The trust responds to this point by saying that it believes the arrangements for aptitude testing are clear, and it believes that they provide sufficient information for parents who might be interested in taking up that admission option. The arrangements make it clear what the aptitude testing process involves and what the entry requirements are. Those parents who are interested are able to obtain further details from the academy. Trustees have scrutinised the procedures, physical assessments and criteria used for the aptitude assessment in sport and are satisfied that they measure aptitude and not ability. Trustees have also ensured that there is a clear focus on aptitude in the arts assessment process.

The trust says that it has published the academy's entry requirements and the process of selection for the places available through aptitude for sports or visual arts. It believes that there is no requirement to publish the criteria for assessment, or to publish material that would allow a member of the public to make an assessment of whether a test is of aptitude rather than ability, or to publish material that would allow a member of the public to determine whether reasonable adjustments are being made for disabled athletes. It does ensure that reasonable adjustments have been made for pupils with disabilities and for those pupils who are not able to meet specific deadlines.

14. The LA confirms that it is satisfied that the arrangements comply with the Code in this respect.

15. I have read the arrangements carefully and referred to the relevant paragraphs in the Code quoted above. I asked the trust to send me further information about how the tests for aptitude are conducted and have reviewed the information that I was sent in coming to my view. The objector has not argued that the test is flawed as an aptitude test but has asserted that he can not judge because there is insufficient detail about it in the arrangements and thus it does not comply with the Code. The school asserts that it takes care to ensure that the test is a genuine test of aptitude and not of ability. In response to my enquiries I have been shown the evidence that this has been considered in meetings and I have been shown how the tests are conducted. Paragraph 1.17 of the Code says that "*all selective schools must publish the entry requirements for a selective place and the process for such selection.*" I am satisfied that the arrangements comply with this aspect of the Code and explain to applicants that they will be tested and an outline of what the procedure is.

16. The Code in paragraphs 1.31 and 1.32 requires the "*form of selection to be clear and objective*" and for the admissions authority to ensure the test is a test for aptitude if this is the permitted form of selection, as it is in this case. I am satisfied that the form of selection

in this case is clear in that it is made plain in the arrangements that applicants will need to take an aptitude test. All applicants for these selective places take part in the same tests. The objection is that the arrangements are not clear about how the aptitude testing is conducted but I do not agree with this point. In my view a parent reading the arrangements will understand clearly what is required to apply for priority for a place on the basis of aptitude. In my view, the trust could do more to explain what it is looking for in terms of aptitude for sport or the visual arts but this is not a requirement of the Code. I have been shown evidence that the trustees of the trust scrutinise the testing procedures and the tests themselves to ensure that they are compliant with paragraph 1.32 of the Code. I do not uphold this aspect of the objection.

17. In the next part of the objection the objector says it is not possible to be confident that the testing is procedurally fair in compliance with paragraph 14, because there is no offer of catch up testing dates to those children who are unwell on the day of the test, or who move to the area after the test but before the national deadline of 31 October each year. He considers that the lack of such catch up testing may have a disproportionate impact on services children and traveller children and as a result they may be treated unfairly.

18. The trust responded that it offers two dates for the physical test each year – one after school on a Wednesday and one on a Saturday, both in July of Year 5. For visual art, there is a deadline for submission of a portfolio. The trust makes alternative arrangements for those unable to attend on the allocated days. This information is provided alongside the admission arrangements on the admissions page of the school's website. The trust says that it has not had instances where parents have complained that their child who did take part in the test felt unwell at that time and therefore was unable to perform as well as they might have done; however, if refused a place these parents would still be informed of their right of appeal and this could be discussed with the appeal panel. I observe that the trust is constrained by the requirement in paragraph 1.32 of the Code to take all reasonable steps to inform parents of the outcome of selection tests by 31 October.

19. The trust is clear that alternative dates are available for the tests and I can see no evidence that there is any discrimination or unfairness being applied to service children, travellers or indeed any other groups. I do not therefore uphold this aspect of the objection.

20. The last part of the objection is that in the operation of ranking and waiting lists there are, in effect, multiple rankings (for aptitude places and for each zone) and that this breaches the requirement of the Code that the admission authority provides the LA with a single ranked list. The trust says that the LA administers the admissions arrangements using the list of pupils provided by the academy. It is the LA which determines the allocation of pupils across the county once the academy has provided the list. The LA is supportive of the methodology used by the trust and comments that whilst it is an additional burden on the LA to address, the LA does not consider it to be unlawful.

21. Paragraph 15d of the Code refers to submission of a list and says “...when oversubscribed a school’s admission authority must rank applications against its published oversubscription criteria and send that list back to the local authority..” and paragraph 2.14 of the Code says “each admission authority must maintain a clear, fair and objective waiting list until at least 31 December...” . The trust provides a list of pupils to the LA and this is used by the LA to coordinate applications and make offers of school places. The different zones that the school uses and the selection of some applicants by aptitude add some complexity to the list but I am satisfied that the LA has the information that it requires to be able to make its allocation of places. I am also satisfied that the Trust as admission authority understands and carries out its responsibilities for maintaining a waiting list. I do not uphold this part of the objection.

## Summary of Findings

22. There are five parts to this objection. In the first part the objector considers that the arrangements are so complex that parents are unlikely to be able to assess the likelihood of a successful application. I have noted that although the arrangements are indeed complex, I did not think that they were difficult to understand and I consider that a parent will be able to see how the places are allocated. I have not upheld this part of the objection.

23. The second and third parts of the objection concern the way that the testing for aptitude is explained in the arrangements and then how the testing is performed. I am satisfied that the trust has set out sufficient information in the arrangements to allow a parent to understand how the testing works. Further information is available from the school for those parents who are interested in putting their child forward for selection. In my view the trust meets the requirements of the Code in respect of clarity. I reviewed further information that the trust provided for me, which is more than would normally be supplied to parents, and I am satisfied that the trust ensures that the testing process tests for aptitude as it is required to do. The objector is concerned that a parents will not have access to sufficient information in the arrangements to be able to assess for themselves whether the aptitude selection complies with the Code. I have commented that this is not a requirement of the Code and that it is the responsibility of the trust to ensure compliance rather than to provide information such that parents can assess compliance for themselves although there is no restriction on the information that the trust can share and it, if it considers it helpful, choose to make more information available. I have not upheld these parts of the objection.

24. The next part of the objection is that additional tests are not available for those who are unwell on the day of the test or for who are unavailable for the date of the test. The trust has reassured me that it is flexible in its procedures and will offer additional testing opportunities if these are necessary. I have not upheld this part of the objection.

25. I have not upheld the past part of the objection that asserts that in the operation of ranking and waiting lists there are, in effect, multiple rankings (for aptitude places and for each zone) and that this breaches the requirement of the Code. I am satisfied that the LA



has sufficient information to be able to allocate places and that parents can be clear how these places have been allocated.

## **Determination**

26. 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 2020 determined by The Priory Federation of Academies Trust for Priory Ruskin Academy, Grantham, Lincolnshire.

Dated: 26 July 2019

Signed:

Schools Adjudicator: David Lennard Jones