



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: ADA3671**

**Objector: Binfield CE Primary School (VA), Benetfeld Rd, Binfield, RG42 4EW**

**Admission authority: Kings Group Academies multi-academy trust for Kings Academy Binfield**

**Date of decision: 20 August 2020**

## 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 2021 determined by the Kings Group Academies, a multi-academy trust, for Kings Academy Binfield, Bracknell Forest.**

**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 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 on behalf of Binfield CE Primary School, (the objector), about the admission arrangements (the arrangements) for the secondary phase at Kings Academy Binfield (the school), an all-through school for pupils aged 3 to 19, for September 2021. The objection is to the priority given within the oversubscription criteria for entry to Year 7 for pupils attending Kings Academy Oakwood Primary School (Oakwood).

2. The local authority (LA) for the area in which the school is located is Bracknell Forest Council. The LA is a party to this objection. Other parties to the objection are the objector and the school.

## **Jurisdiction**

3. The terms of the Academy agreement between 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 academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 22 April 2020. 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. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 21 April 2020 and supporting documents;
- d. the school's, LA's and the Diocese of Oxford's responses to the objection and supporting documents.

## **The Objection**

6. The objection is to the priority given within the oversubscription criteria for entry to Year 7 at the school to pupils attending Oakwood.

## **Background**

7. The school was established as an all-through free school for boys and girls aged 3 to 19 on 1 September 2018. The school does not have a religious character. It was then a new school and each phase, primary and secondary, has filled from Reception and Year 7 respectively. Consequently, in September 2020 the school will have pupils in Reception and Year 1 (primary phase) and Year 7, Year 8 and Year 9 (secondary phase). In September 2021 the school will have pupils in each of the above year groups and in Year 2 and Year 10.

8. The relevant parts of the school's oversubscription criteria for entry to the secondary phase in 2021 are as follows:

"Children currently attending Year 6 at King's Academy Binfield will automatically transfer to Year 7 at King's Academy Binfield with no application required as it is a through school...

### **Secondary Criteria**

The criteria below will be used for admission into the secondary year groups

When the school is oversubscribed, after the admission of pupils with an Education, Health and Care plan naming the school, priority for admission will be given to those children who meet the criteria set out below, in priority order:

1. Looked after children and children who were previously looked after but immediately after being looked after became subject to adoption, a child arrangements order, or special guardianship order<sup>1</sup>.
2. Children who appear to have been in state care outside of England and ceased to be in state care as a result of being adopted
3. Priority will next be given to children based on their exceptional medical or social needs. Each application must include evidence, from a medical specialist or social worker involved with the child on a professional basis, of the child's need and why they must attend this school rather than any other, based on those needs. If evidence is not submitted to the local authority with the application, a child's medical or social needs cannot be considered. An additional form will need to be completed.
4. Priority will next be given to children attending the link primary academy, King's Academy Oakwood.
5. Priority will next be given to children whose siblings currently attend King's Academy Binfield and who will continue to do so on the date of admission.
6. Priority will next be given to children of staff members. Children whose parent(s) have, at the time of application, been employed by King's Academy Binfield for a minimum of two years at the time of making the application or who have been recruited to fill a vacant post within the school where there is a demonstrable skill shortage.

7. Priority will next be given to children living within the secondary phase catchment/designated area set out in the map at the end of this policy.
8. Other children”.
9. Following consultation significant changes were made to the oversubscription criteria from those which applied for the previous year. Relevant to this objection is the inclusion, at criterion 4, of priority to a feeder primary school, Oakwood.
10. Oakwood opened as a new primary academy on 2 September 2019, admitting children to reception, Year 1 and Year 2. From September 2020 it will have children in Reception, Year 1, Year 2 and Year 3. From September 2021 it will have children in Reception, Year 1, Year 2, Year 3 and Year 4. In the school year 2023/2024 it will have, for the first time, a Year 6 cohort of pupils who will transfer to secondary provision in September 2024. Oakwood does not have a religious character.
11. Binfield CE Primary School (Binfield), on behalf of which this objection is made, is a voluntary aided Church of England primary school for boys and girls aged 4 to 11. It is a two form entry school, recorded as currently having 407 pupils on roll. Binfield has a religious character. However, the oversubscription criteria do not include any faith criteria.
12. The published admission number (PAN) for the entry to the secondary phase at the school in 2021 is 210. When the primary phase has filled up to include a Year 6 cohort from September 2025, those Year 6 pupils will automatically transfer to Year 7 in the secondary phase, unless their parents choose to send them to school elsewhere.

## Consideration of Case

13. Admission authorities must determine their admission arrangements annually. The admission arrangements for 2021 were to be determined by 28 February 2020. Subject to any changes to the provisions of the Code arrangements for 2022 are to be determined by 28 February 2021 and so on for subsequent years. Determined admission arrangements apply only for the school year for which they are determined. The same or different arrangements, including the same or different oversubscription criteria, may be determined for future years (subject to the requirements of the Code).
14. Oakwood will not have children in Year 6 until September 2023. Those children will transfer to secondary provision in 2024. The admission arrangements for 2024 are (as the Code currently stands) to be determined by 28 February 2023.
15. Paragraph 1.15 of the School Admissions Code 2014 (the Code) states:

“Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds”.
16. Paragraph 14 of the Code provides that “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 of the Code provides that "Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation".

17. On the inclusion in the admission arrangements for 2021 of a priority for pupils attending Oakwood the school have told me:

"The decision was made to consult at this point regarding the higher prioritising of KAO [Oakwood] children into KAB [the school] in the over-subscription criteria, despite it not being required until the 2024/25 policy for two reasons:

1. To negate the need for further consultation
2. To give assurance to the parents of the KAO children as they buy into KAB and KGA".

18. I understand that it is desirable to minimise the requirement for consultation and the desire to reassure parents that should their children attend Oakwood they will be very likely to be offered a place at the school in Year 7 when the time comes. However, as stated above, admission criteria apply only to the year for which they are determined. The admission authority may decide to change them (following further consultation) or they may be changed as a result of an Adjudicator's decision following a future objection. There is nothing to prevent an admission authority informing parents that its intention is to give such priority in future when there is a Year 6 cohort at secondary transfer age. However, I find that it is not reasonable to include in oversubscription criteria for 2021 a priority to a group of applicants which does not yet exist.

19. I do not find it reasonable for the admission arrangements for 2021 to include priority for a feeder school, Oakwood, which will not have children of secondary transfer age until 2024 and so that criterion does not comply with paragraph 1.15 of the Code. In the circumstances the priority given to pupils attending Oakwood is not clear and is likely to be misleading for parents and so does not comply with paragraphs 14 and 1.8 of the Code.

## Other matters

20. I raised in correspondence with the school the question of pupils transferring automatically from the primary phase at the school to the secondary phase and whether provision had been made for this in setting the PAN for the secondary phase. As the school pointed out this does not arise as there is currently no Year 6 in the primary phase. I find the statement in the admission arrangements for 2021 "Children currently attending Year 6 at King's Academy Binfield will automatically transfer to Year 7 at King's Academy Binfield with no application required as it is a through school" is not clear and potentially misleading as there is not Year 6 cohort at the school. Consequently, it does not comply with paragraphs 14 and 1.8 of the Code.

21. The objector raised a number of issues in relation to the inclusion of a priority for pupils attending Oakwood. The objector is concerned about the impact on Binfield, which is

geographically closer to the school than Oakwood, if parents chose Oakwood in order to take advantage of the priority for entry to the school. There is also concern about alternative secondary provision for pupils from Binfield if they are displaced from places at the school due to the priority given to pupils attending Oakwood. The objector also raises the question of possible discrimination if pupils attending a faith school are given a lower priority than pupils attending a more distant primary school without a religious character.

22. The parties have helpfully provided me with information relevant to these matters. However, given my finding set out above it is not necessary for me to determine these issues. As stated above the earliest year in which a priority for pupils attending Oakwood is relevant is 2024. The admission arrangements for 2024 will, as things stand, be determined in early 2023. At that point the school's admission authority may or may not determine that the admission arrangements for 2024 will include a priority for pupils attending Oakwood. If it does so, and if an objection is referred to the Adjudicator, these issues and others may have to be considered, taking into account all relevant circumstances at that time. It would not be helpful for me to speculate on whether or not such provision would comply with the provisions of the Code at a date so far in the future.

## Determination

23. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2021 determined by the Kings Group Academies, a multi-academy trust, for Kings Academy Binfield, Bracknell Forest.

24. 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.

25. 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 this determination.

Dated: 20 August 2020

Signed:

Schools Adjudicator: Tom Brooke