



Determination

Case reference:	REF3912
Admission authority:	the governing board of Salendine Nook High School Academy, Huddersfield
Date of decision:	20 September 2022

Determination

I have considered the admission arrangements for September 2023 for Salendine Nook High School Academy, Huddersfield in accordance with section 88I(5) of the School Standards and Framework Act 1988 and find that there are matters in the arrangements that do not conform with the requirements for such arrangements. Those matters are 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 arrangements within two months of the date of the determination, whichever is sooner, unless an alternative timescale is specified by the adjudicator. In this case, I determine that the arrangements must be revised by 31 October 2022.

Referral and Jurisdiction

1. The arrangements were determined under section 88C of the School Standards and Framework Act 1988 (the Act) by the governing board of Salendine Nook High School Academy (the school), which is the admission authority for the school, on 23 September 2021. The arrangements were brought to my attention in the course of my consideration of the arrangements of Rastrick High School, Brighouse (see case reference number ADA3900), about which the school had raised a number of objections.
2. Having had sight of the school's own arrangements, it appeared to me that they did not conform with the requirements relating to admissions. I have accordingly considered the arrangements for the school, as determined by the governing board, in accordance with my jurisdiction under section 88I(5) of the Act.

3. The parties to this case are the governing board of the school and Kirklees Council (the local authority (LA)).

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

5. The information I have considered in reaching my decision includes:

- 5.1. a copy of the school's arrangements;
- 5.2. a copy of the governing board's minutes, dated 23 September 2021, in which the arrangements were determined;
- 5.3. the responses from the school and the LA in respect of the matters raised;
and
- 5.4. the Department for Education's (DfE) 'Get Information About Schools' (GIAS) and Ofsted websites.

Background

6. The school is a co-educational, non-selective secondary school for 11 to 16 year olds in Huddersfield. It is a single academy trust; the school having converted to academy status in 2012. According to the GIAS website, the school has a number on roll of 1386 and a capacity for 1436 pupils. The school was rated 'Good' at its last inspection in 2019. The Published Admission Number (PAN) for the school is 275.

7. In the event of oversubscription, after the admission of children with Education, Health and Care Plans (EHCPs) who name the school, places will be prioritised according to the school's oversubscription criteria, summarised as follows:

- 1 Looked after and previously looked after children.
- 2 Children of staff employed by the Academy.
- 3 Children who live in the school's Priority Admission Area (catchment area) who have an older brother or sister attending from the same address at the date of admission.
- 4 Other children who live in the school's catchment area.
- 5 Children who live outside the school's catchment area who have an older brother or sister attending from the same address at the date of admission.
- 6 Other children who live outside the school's catchment area.

8. The focus of this determination relates primarily to issues arising from compliance with paragraphs 14 and 1.8 of the Code. Paragraph 14 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.” Paragraph 1.8 states: “Oversubscription criteria **must** be [...] clear [...] and comply with all relevant legislation [...]”. Other paragraphs of the Code are identified where relevant.

Consideration of Case

9. The matters I raised with the school in respect of its arrangements are as detailed in this section.

The introduction and the PAN

10. In the introduction to the arrangements, it is stated: “The Governing Body has responsibility for admissions and has agreed to a PAN of 275 in all year groups.” Paragraph 1.2 of the Code states that the published admission number (PAN) applies to the relevant year group, which is “the age group at which pupils are or will normally be admitted to the school” (footnote 11). In the school’s case, this is Year 7. The PAN, therefore, only applies to Year 7 and not all other year groups. Moreover, as the PAN relates only to those joining the school for the first time and not those progressing from one year group to another, the arrangements could be taken to suggest that up to 275 additional children might join each year in every year group. Admission to year groups other than relevant year groups fall to be considered and can only be refused on the basis of ‘prejudice to the efficient provision of education or use of resources’ (paragraph 2.28). Those year groups are not subject to a PAN.

The section entitled ‘Over-subscription criteria’

11. It is stated that: “If a place becomes available, it will be offered to children in the following order of priority [...]”. The first part of this sentence is not clear for parents. There are 275 places available in Year 7. Paragraph 1.6 states that oversubscription criteria apply when there are more applications than places in Year 7, not only when a place becomes available.

12. The arrangements do not include an explanation of looked after children / previously looked after children for parents to whom oversubscription criteria 1 might apply. As a result this is not clear for parents. Additionally, the lack of explanation means that it is not clear that the definition of previously looked after children now includes that which is encapsulated under paragraph 1.7 of the Code to cover: “[...] those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.” It is also unhelpful to conflate children in public care with those who are looked after. It is the case that all children in public care are looked

after, but not all looked after children are in public care. There are looked after children (as explained in the Code) who are not in public care. This is also therefore unclear for parents.

13. Oversubscription criterion 2 does not specify the limitations on admitting the children of members of staff at the school as set out in paragraph 1.39 of the Code and as required by paragraph 1.40.

14. Oversubscription criteria 3 and 5 do not make clear to parents whether the definition of 'brother or sister' includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address. That they do so is a requirement of paragraph 1.11 of the Code.

15. The paragraph following the oversubscription criteria reads:

“Salendine Nook High School will admit children with an Education, Health and Care Plan (EHCP) where the school is named in the EHCP subject to some important conditions. Any Admission which takes the school over PAN, must not be prejudicial to the efficient education of others and the deployment of the school’s resources. Also, where the school is over PAN to the extent health and safety of compromised e.g. in practical subjects such as Design Technology, the school will notify SENDACT that it cannot admit students.”

16. There are a number of ways in which this paragraph does not conform with the requirements of the Code.

16.1. The position in the arrangements gives the impression to parents that those children with EHCPs are admitted after all other pupils. It is not clear for parents that all children with EHCPs which name the school must be admitted (paragraph 1.6) and places are allocated to those pupils prior to admitting others using the oversubscription criteria. It is not clear to parents that this may then reduce the number of places available to other pupils.

16.2. Where referring to the school’s refusal to admit a pupil because to do so would prejudice the efficient provision of education or use of resources, this applies to any pupils other than those with EHCPs and applies to year groups other than the normal year of entry. For those with EHCPs this will already have been dealt with at the stage at which the school was named on the EHCP. This part of the arrangements also refers to PAN as if this covers all year groups and not just Year 7. This is therefore not clear for parents (paragraph 2.28).

(Appendix 2 of the Code provides an example of how the school could refer in its arrangements to the admission of those pupils with EHCPs).

17. The arrangements go on to state: “If the school cannot agree to requests for admission in Priorities 2 to 5 without exceeding the PAN, priority will be determined by

numerical score.” This is not clear for parents in that it does not explain what the numerical score refers to or how it will assist in determining the priority of admissions.

18. The next paragraph in the arrangements starts: “For priority groups 3-6, where students are of the same priority grouping [...]”. It is not clear for parents what a ‘priority grouping’ is and how it relates to the oversubscription criteria.

19. The paragraph which states “a. ‘Live’ means the child’s permanent home at the date when applications close, or if a significant house move is involved, the latest reasonable date before the final allocation of places. It is expected that the allocation process will commence in January of each academic year”, needs to be clearer. The word ‘live’ is not in the previous paragraph and so it will not be clear for parents as to what it is defining and to what the definition is referring.

20. A paragraph in the arrangements states: “b. A Priority Admission Area [PPA] means a geographical area determined by Kirklees in consultation with the governing body of the school”. Thus, this part of the arrangements explains the process of defining the catchment area but not its purpose in the admission arrangements for this school. The definition of a catchment area in the Code (page 44) is “A geographical area, from which children may be afforded priority for admission to a particular school”. This school does have a catchment area and a clear map of this area is included in the arrangements; however, it cannot be “determined by Kirklees”. Kirklees Council is not the admission authority and cannot determine the catchment. Only the school, as admission authority, can do that, although it is obviously helpful that in doing so it would work with the local authority for the area. As it stands, this paragraph is not compliant with the Code.

The section covering ‘Students with an Education, Health and Care Plan (EHCP)’

21. It is correct that the process of determining an EHCP for a child and naming the school in that plan is separate from the admissions process that applies to other children. However, in terms of admissions, once the school is named on an EHCP, the school must admit the child (paragraph 1.6). It is not clear therefore what purpose this section serves in respect of admission of those with EHCPs that name the school, and it is not clear for parents.

The ‘Pupils with disabilities’ section

22. The purpose that this section serves in the administering of admissions to the school is not clear. Whilst no doubt well-meaning, the school is already bound by law, including equalities law, and paragraphs 13 and 1.8 of the Code in this regard and the arrangements set out, insofar as they need to be addressed by what is set out in this determination, how any pupil (including those with disabilities) will be admitted. The way this section is phrased suggests that the school is saying that it will only make ‘reasonable adjustments where a disabled student would be substantially disadvantaged’, which does not appear to be representing the school’s duty correctly. The Code is silent on whether a school should or should not include a statement such as this. However, if the school chooses to continue to

do so, then it should ensure that this section is reflecting its duties and the relevant law appropriately.

The 'Waiting List' section

23. This section does not comply with paragraph 2.15 of the Code. That paragraph states: "Each admission authority must maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria." In respect of this:

23.1. Parents are not expected to 'apply' to be placed on the school's waiting list as the arrangements state. However, it is permissible for the school to ask parents to confirm if they wish their child(ren) to stay on the waiting list.

23.2. The sentence "This waiting list will follow the order of over-subscription criteria set out above" does not reflect the process of re-ranking as set out in paragraph 2.15 and which that same paragraph expects the school to state.

23.3. At the very end of the arrangements, prior to the catchment area map, there is an asterisk stating "* Pupil Priority Admission Area" which appears to link to the acronym 'Pupil Priority Area' in oversubscription criterion 3. However, this acronym is PPA and not PPAA and PPA is already defined on the same page as the asterisk. Also the acronym PPAA (to which this asterisked phrase refers) is not used anywhere in the arrangements and is therefore not clear to parents.

24. The school has told me that it intends to address these matters which is welcomed. It has provided me with a copy of draft arrangements it has updated to address the matters raised. However, as the copy provided is not the determined arrangements and is not within my jurisdiction, I have not looked any further at them.

25. The LA's response to the matters I raised was: "On behalf of Kirklees Council; We of course welcome Salendine Nook High School Academy's commitment to work with the Office of the Schools Adjudicator to review their admission arrangements but have no other comments to make at this time."

Summary of Findings

26. The arrangements include matters which are unclear, inaccurate or missing as detailed above. The arrangements therefore do not meet the requirements of paragraphs 14, 1.8 and other paragraphs of the Code, which are also detailed above. Parents will not be able to look at the arrangements "and understand easily how places for that school will be allocated."

Determination

27. I have considered the admission arrangements for September 2023 for Salendine Nook High School Academy, Huddersfield in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are matters in the arrangements that do not conform with the requirements for such admissions. Those matters are set out in this determination.

28. 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 the determination, whichever is sooner, unless an alternative timescale is specified by the adjudicator. In this case, I determine that the arrangements must be revised by 31 October 2022.

Dated: 20 September 2022

Signed:

Schools Adjudicator: Dr Robert Cawley