



Determination

Case reference:	REF4145
Referrer:	Office of the School Adjudicator (OSA)
Admission authority:	Swinton Academy governing board on behalf of The Aston Community Education Trust for Swinton Academy, Rotherham
Date of decision:	4 July 2023

Determination

I have considered the admission arrangements for September 2024 for Swinton Academy on behalf of the Aston Community Education Trust (ACET) for Swinton Academy in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that elements of the admission arrangements as outlined in the determination do not conform with the requirements.

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. Following a meeting and written communication with Rotherham Secondary Headteachers in July 2022 the OSA reviewed the published admission arrangements for Aston Academy in April 2023. As the arrangements had been brought to the attention of the OSA I decided to use the power conferred under section 88I(5) of the School Standards and Framework Act 1998, (the Act). This referral concerns the admission arrangements (the arrangements) for Swinton Academy (the school), for September 2024.
2. The referral relates to the determination, clarity, accuracy, conformity to the School Admissions Code (the Code), responsibility for and publication of the school's admission arrangements.

3. The parties to the case are the ACET, the school and Rotherham Metropolitan Borough Council.

Jurisdiction

4. The terms of the Academy agreement between the academy trust and the Secretary of State for Education require that the admission arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined under section 88C of the Act by the school's governing board, which is the admission authority for the school, on 4 October 2022 on that basis. When they were brought to my attention it appeared that the arrangements did not, or might not, conform with the requirements for admission arrangements. I therefore decided to use my power under section 88I(5) of the Act to consider them as a whole. I pause here to note that the school and the local authority refer frequently to the admissions policy. I have used the term admission arrangements, which is that used in the Code and the primary and secondary legislation, unless I am quoting from what the local authority or school has said, in which case I follow the term they have used.

Procedure

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

6. 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 chief operating officer's comments on behalf of the Trust on the matters raised, supporting documents and subsequent correspondence;
- d) comments from the local authority on the matters raised, supporting documents and subsequent correspondence; and
- e) the local authority's composite prospectus for parents seeking admission to schools in the area in September 2023.

The Referral

7. The referral relates to;

- 1) The annual determination of admission arrangements by the governing board of the school (paragraphs 15b and 1.49 of the Code).
- 2) The clarity of the arrangements for parents (paragraph 14 of the Code).

- 3) Reference to School Admissions team from the local authority (paragraph 1.8 of the Code).
- 4) Clarity for parents about details of the oversubscription criteria and how they are administered (paragraph 14 of the Code).
- 5) Clarity for parents with regard to the use of the terms admissions, local authority and authority in the arrangements (paragraph 14 of the Code).
- 6) The absence of details of the catchment area in the arrangements (paragraph 1.14 of the Code).
- 7) The absence of reference to children outside their normal age group in the arrangements (paragraphs 2.18, 2.19 and 2.20 of the Code).

Background

8. In June 2022 the OSA received an objection to the admission arrangements for a school in the Rotherham Metropolitan Borough Council. The objection was later withdrawn but not before the OSA had viewed the admission arrangements for that school and others in the area. The school and, as it turned out, most of the other academy schools in the local authority were under the impression that the local authority co-ordinated admission process extended to and in fact was the determined arrangements for the schools. The OSA met the headteachers and it was confirmed that they thought that the local authority was the admission authority for the schools even though all sixteen of the secondary schools in the local authority's area are, in fact, academies. This means that the admission authorities for these academy schools are either the academy trust (whether a single academy trust or a multi academy trust) or the governing board of the school if so delegated by the trust. As a result of this fundamental misunderstanding, many of the schools had no determined arrangements.

9. Following correspondence with the admissions lead in the local authority and the representative of the secondary headteachers group, the admission arrangements for each individual school were formulated.

10. A review of the academies' arrangements was undertaken by the OSA as a follow up to the actions in July 2022 and the arrangements for some of the schools were found to be non-compliant with the Code and the law. This case concerns one of those schools.

Consideration of Case

11. I shared my concerns about the arrangements with the school, the Trust and the local authority. The local authority replied to say that it agreed with points 1 to 5 and 7 (above) raised by me. It went on to say that the arrangements also contained unnecessary information and were not clear on who is responsible for aspects of the admissions practice. The local authority accepts that it could be confusing and unhelpful to parents.

12. The Head of Service Access to Education went on to say that ‘The Local Authority provided a model policy to the school and the determined arrangements were formulated on the basis of this. Rotherham Metropolitan Borough Council has a sound working relationship with Academies within the borough and is committed to ensuring the compliance of the Local Authority and all admission authorities moving forward. A new Head of Service has recently been appointed and has reviewed current arrangements in respect of admissions. A plan to enhance the service is in place:

- Communications with all own admission authorities in June 2023 to reinforce their responsibilities in respect of admissions;
- Webinar for all own admission authorities in July 2023 to follow this up;
- Externally commissioned training in September 2023 for Local Authority and academy admissions leads to support compliance of future arrangements;
- Checklist for colleagues in the Local Authority admissions team has been created to enable them to be assured of compliance in respect of content of policies, consultation and determination, and refer on to the Adjudicator any academies believed to be non-compliant.

The Council will support necessary changes following any determination issued by the Adjudicator.’

13. The Trust responded that they followed the model policy provided by the local authority.

14. The key issues to be addressed are;

- 1) The admission arrangements in full must be determined by the admission authority (in this case the local governing board of the school on behalf of ACET for Aston Academy) annually. Paragraph 15b of the Code states that ‘Admission authorities **must** set (‘determine’) admission arrangements annually. Where changes are proposed to admission arrangements, the admission authority **must** first publicly consult on those arrangements. If no changes are made to admission arrangements, they **must** be consulted on at least once every 7 years. Consultation **must** be for a minimum of 6 weeks and **must** take place between 1 October and 31 January of the school year before those arrangements are to apply (the determination year).’ Paragraph 1.49 of the Code states that ‘All admission authorities must determine their admission arrangements, including their PAN, every year, even if they have not changed from previous years and a consultation has not been required by 28 February in the determination year.’ Reading the minutes of the governing board meeting of the 27 March 2023 I am of the view that the governing board as the delegated admission authority for the school did not fully understand their responsibilities in this respect even though they did share the arrangements for approval prior to the meeting.
- 2) Paragraph 14 of the Code states 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'. The school's arrangements start with three and a half pages of quotation from the Code. The Code sets out the statutory requirements for admission authorities for the compilation and determination of arrangements, it is not a document for parents and I am of the view that these three and a half pages of excerpts from the Code could be confusing and unhelpful to parents and therefore contrary to paragraph 14 of the Code. This element of the arrangements requires amendment.

- 3) On page six of the arrangements the tie breaker situation is explained and reads 'will be allocated by the simple drawing of lots by a representative of the local authority independent of the School Admission Team'. Paragraph 1.8 of the Code states 'Admission arrangements must include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.' This should be independent of the admission authority, which in this case is the governing board of the school and could therefore be a representative of the local authority admissions team. This element of the arrangements requires amendment.
- 4) Under the same section after the PAN is recorded there is a paragraph concerning oversubscription within over subscription criteria but the actual criteria are reported later in the arrangements. I am of the view that this could be confusing to parents and therefore contrary to the Code at paragraph 14. This element requires amendment.
- 5) The oversubscription criteria on page seven of the arrangements use three terms to indicate groups of people responsible for various definitions: 'admissions', 'local authority' and 'authority'. These are not defined and could be confusing for parents and therefore in my view are non-compliant with paragraph 14 of the Code. There appears to be confusion in the arrangements about the separate responsibilities of the admission authority and the local authority. The arrangements need to make it clear that it is the admission authority (i.e., the Trust/governing board) which is responsible for the arrangements for admission. There has been some confusion about the respective purposes and functions of the local authority's coordinated scheme and the individual school's admission arrangements. These are two separate and discrete documents, which exist for different purposes and are published to different timescales. The co-ordinated scheme is used by local authorities to administer the admission process; this scheme must adhere to the statutory requirements of admissions procedures and must apply these requirements in line with the admission arrangements set by the individual admission authorities. The arrangements are currently unclear and require amendment.
- 6) Oversubscription criteria 4, 5 and 7 refer to a catchment area. It is defined as 'being defined by the Authority' although it is unclear which authority is being referred to (whether the admission authority, the local authority or some other authority altogether). In its response the school says it is the local authority who define the

catchment area and this is contrary to the Code. It is the admission authority i.e., the governing board which has the responsibility to define the catchment area. Also, as the catchment area is an integral part of the admission arrangements it is essential that parents can access maps or other references which show the catchment area as defined by the governing board, in line with paragraph 1.14 of the Code. The arrangements as they stand do not provide any definition of the catchment area, with the result that parents cannot look at the arrangements and know whether or not their address is within the catchment area. This element of the arrangements does not conform to the Code and requires amendment.

- 7) Paragraphs 2.18, 2.19 and 2.20 of the Code refer to the admission of children outside their normal age group and reference to this should be within the admission arrangements. This requires amendment.

Summary of Findings

15. I have detailed above the elements of the admission arrangements which are non-compliant with the Code and the law governing admissions. These require significant amendment.

Determination

16. I have considered the admission arrangements for September 2024 for Swinton Academy on behalf of the Aston Community Education Trust (ACET) for Swinton Academy in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that elements of the admission arrangements as outlined in the determination do not conform with the requirements.

17. 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: 4 July 2023

Signed:

Schools Adjudicator: Ann Talboys