



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4210 and REF4211

Objector: A parent

Referrer: Somerset County Council

Admission authority: The Castle Partnership Trust for The Castle School

Date of decision: 24 August 2023

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 2024 determined by The Castle Partnership Trust for The Castle School, Taunton, Somerset.

I have also considered the admission arrangements for September 2024 determined by The Castle Partnership Trust for The Castle School, Taunton, Somerset in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the referral by Somerset County Council, the arrangements do not conform with the requirements.

I have also found that 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised within one month of the date of this determination.

The objection

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been submitted to the adjudicator by a parent (the objector) and under section 88(I) of the Act a referral has been submitted by Somerset County Council (the local authority) about the admission arrangements for September 2024 for The Castle School (the school), a non-selective academy secondary school for pupils of both sexes aged 11 to 19.
2. The local authority for the area in which the school is located is Somerset County Council. The LA is a party to this objection. Other parties to the objection are the objector and the Castle Partnership Trust, a multi-academy trust (the trust).

Jurisdiction

3. The terms of the Academy agreement between the 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.
4. The objector submitted their objection to these determined arrangements on 15 May 2023. 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.
5. The referrer submitted an objection to these determined arrangements on 17 May 2023. The School Admissions Code (the Code) requires objections to admission arrangements for 2024 to be made to the Office of the Schools Adjudicator by 15 May 2023. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and I am treating the objection as a referral.
6. I have also used my power under section 88I of the Act to consider the arrangements as a whole.
7. Much of the information submitted with the objection is concerned with the particular circumstances arising from an application relating to the objector's child. I am concerned here not with how any particular application was dealt with but rather with the admission arrangements as determined and published for entry in 2024.

Procedure

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

9. The documents I have considered in reaching my decision include:
- a. a copy of the minutes of the meeting at which the admission arrangements were determined;
 - b. a copy of the determined admission arrangements;
 - c. the objector's form and statement of objection dated 15 May 2023;
 - d. The referrer's form of objection dated 17 May 2023
 - e. the school's response to the objection and the referral.
 - f. Further submissions provided by the objector and the referrer.

Background

10. The school is a non-selective, mixed gender secondary school with a sixth form. The number of pupils is stated on the GIAS website as 1199 and the capacity as 1188. The published admission number for Year 7 for entry in 2024 is 240. The oversubscription criteria, in short form, are:

1. Looked After Children and previously Looked After Children.
2. Children living in the designated catchment area with a sibling attending The Castle School at the time of application.
3. Children attending Orchard Grove Primary School at the time of application.
4. Children of staff employed at The Castle School.
5. Children living in the designated catchment area.
6. Children living outside the designated catchment area with a sibling attending The Castle School at the time of application.
7. Children not satisfying a higher criterion.

Consideration of Case

The objection

11. The objector contends that the provisions in the school's admission arrangements for determining the home address of a child who lives part of the time at one address and part at another are not compliant with the School Admissions Code (the Code). The relevant provisions in the admission arrangements read:

"The school will not accept more than one address as the child's home address. The terms of a residency order may clarify the home address.

Where necessary to determine which address to recognise and in the absence of a

residency order, the school will consider the home address to be with the parent with whom the child resides for most of the time. In reaching this decision, evidence will be requested to show the address to which any Child Benefit is paid and from which the child is registered with a medical GP at the point of application. Any other evidence provided by parents will also be considered by the school in reaching a decision on the home address for admissions purposes.

This may be necessary for instance where parents do not agree on the child's home address. Parents are urged to reach agreement or seek a Specific Issues Order from a court to decide which parent should or should not pursue an application. Where they do not, the school will determine the home address."

12. I note here that in correspondence with the parties I pointed out that "residency order" should be "residence order". That would be correct but for the fact that residence orders have been replaced by child arrangement orders (see footnote 17 to paragraph 1.7 of the Code). I apologise for any confusion caused. Consequently, the admission arrangements should, where relevant, refer to child arrangement orders.

13. An admission authority is entitled to set out what is considered to be a child's home address, it is good practice to do so. I find that to take home address to be "with the parent with whom the child resides for most of the time" is acceptable and compliant with the provisions of the Code.

14. I accept that "the address to which any Child Benefit is paid and from which the child is registered with a medical GP" are not definitive evidence of where a child resides most of the time. However, I read the provisions relating to evidence of home address as saying that Child Benefit and the GP registration address are to be taken as a strong indication of a child's home address and I note that "any other evidence provided by parents will also be considered by the school". Child Benefit and the GP registration address are not taken to be definitive of home address as other evidence may be submitted and taken into account. Consequently, I find that the provisions relating to evidence of home address are compliant with the Code and the objection is not upheld.

15. I will consider the reference to parents reaching agreement on the home address below.

The referral

16. The referrer queries whether giving priority in the oversubscription criteria to Orchard Grove Primary School as a feeder school is compliant with the provisions of the Code.

17. Orchard Grove Primary School is a new school due to open in September 2023. Currently, according to Orchard Grove's website, there are plans only to admit pupils to Reception, with a possibility of admissions to Year 1 and Year 2. No pupil at Orchard Grove will reach secondary transfer age for some years to come. Consequently, there will not be any applicants to the school for entry in 2024 who could meet the requirement of this criterion.

18. Admission authorities are required to determine their admission arrangements annually and to carry out a consultation if those admission arrangements are to change. The admission arrangements determined by the school for 2024 entry apply only to that year of entry, not to any future years.

19. The trust state “The LA made it a condition of our sponsorship of Orchard Grove that we would open other year groups, should it be required. Therefore, we named Orchard Grove as a feeder school in the oversubscription criteria for The Castle School because it is possible we will need to open other year groups during the academic year”.

20. No such other year groups are currently proposed for admission in 2024 and I find that it is not clear to include this provision in the admission arrangements for 2024. If pupils were admitted to Year 6 in the 2023/24 academic year, which I consider unlikely, then the Code provides at paragraph 3.6 for variations to be made to admission arrangements in specified circumstances.

21. The inclusion of Orchard Grove Primary School as a feeder school would, in the circumstances set out above, not be reasonable and so would not be compliant with the provisions of paragraph 1.8 of the Code, the relevant part of which reads:

“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation”.

22. Consequently, the referral is upheld.

Other matters

23. Having considered the arrangements as a whole it would appear that the following matters also do not, or may not, conform with requirements. I have accordingly decided to exercise my powers under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

24. “The Castle School has formed The Castle Partnership Trust and expects families to apply for a place at the school within the Trust that is in their catchment area. For example, if a child lives within the Court Fields School catchment area, it is expected that the family would apply for a place at Court Fields School.” (1.1)

25. This may suggest to a parent that there is some condition or qualification beyond that which is set out in the oversubscription criteria for each relevant school. There are no limits to which schools a parent may apply for, only a limited number of preferences which may be expressed in the normal admissions round. This does not comply with the requirement in paragraph 14 of the Code that admission arrangements are clear. The trust have agreed to remove this wording and consequently I make no formal finding on this point.

26. The admission arrangements state: “Somerset Local Authority (LA) is responsible for coordinating all normal entry school place applications for maintained schools across Somerset”. The school is an academy, not a maintained school. Somerset Council is responsible for coordinating all normal entry school place applications for publicly funded

schools across Somerset (including academies). The use of the term “maintained schools” is misleading and unclear.

27. The trust have agreed to remove the reference to maintained schools and consequently I make no formal finding on this point.

28. The provisions in 6.6 relating to home address are unclear. Points relating to this were raised in the objection and are set out above. There are two situations in which home address may be an issue. The provision reads:

“Home Address

The school will not accept more than one address as the child’s home address. The terms of a residency order may clarify the home address.

Where necessary to determine which address to recognise and in the absence of a residency order, the school will consider the home address to be with the parent with whom the child resides for most of the time. In reaching this decision, evidence will be requested to show the address to which any Child Benefit is paid and from which the child is registered with a medical GP at the point of application. Any other evidence provided by parents will also be considered by the school in reaching a decision on the home address for admissions purposes.

This may be necessary for instance where parents do not agree on the child’s home address. Parents are urged to reach agreement or seek a Specific Issues Order from a court to decide which parent should or should not pursue an application. Where they do not, the school will determine the home address.

Where we ask for evidence of the address from which a child would attend school, this would usually be the exchange of contracts from a solicitor for a house purchase or a signed copy of a minimum of a six-month formal tenancy agreement from a letting agency. An address change due to a move to live with family or friends will not be considered until the move has taken place and suitable proof of residency has been obtained. Proof that a move from the previous address has taken place may also be required e.g. proof of the house sale, a tenancy agreement showing the end date of the tenancy or a notice to quit from the landlord. The Governing Body reserves the right to seek further documentary evidence to support a claim of residence. A representative of the Governing Body may carry out a home visit/s without prior notice to verify a pupil’s home address. We recognise that some families may be unable to provide this, for example, where a house move is at very short notice or where a family is escaping domestic violence. If you cannot provide this evidence, please contact us. We do not intend to penalise families where there is a genuine reason why the usual evidence cannot be provided.

Where shared residence arrangements are in place and it is necessary to determine the home address, each parent may be required to write to the Governing Body and inform them of the number of days each week the child spends with them. Where the

child spends equal time with both parents the Governing Body may ask for additional information including evidence of which parent/carer is in receipt of child benefit, and/or the name of the GP surgery at which the child is registered at the point of application.”

29. The first three paragraphs deal with the situation where a child lives at more than one address, usually when their parents live separately. I have considered an aspect of this above.

30. The third paragraph under 6.6 suggests that parents may agree between themselves which address is to be used. The preceding paragraphs suggest that evidence will be required in order for the school to ascertain the home address being “with the parent with whom the child resides for most of the time”. The fourth paragraph under 6.6 deals with a different situation, where the issue is the validity of an address claimed to be the home address. Then the fifth and final paragraph under 6.6 reverts to the one child, two homes situation setting out a third, again apparently contradictory, approach to this issue. Taken together these paragraphs do not appear to set out clearly the school’s approach.

31. Consequently, I find that these provisions are not compliant with paragraph 14 of the Code, which reads:

“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.”

32. The trust have agreed that these provisions are not clear and have proposed revised wording. It is not within my jurisdiction to advise on proposed amendments. I would however suggest that the revised wording requires further thought, for example the address of a child’s GP seems likely to be of limited assistance in deciding where the child lives for most of the time.

Determination

33. 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 2024 determined by The Castle Partnership Trust for The Castle School, Taunton, Somerset.

34. I have also considered the admission arrangements for September 2024 determined by The Castle Partnership Trust for The Castle School, Taunton, Somerset in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the referral by Somerset County Council, the arrangements do not conform with the requirements.

35. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

36. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised within one month of the date of this determination.

Dated: 24 August 2023

Signed:

Schools Adjudicator: Thomas Brooke