



Office of
the Schools
Adjudicator

Determination

Case reference: REF4121

Referrer: The London Borough of Bromley

Admission authority: The Inicio Educational Trust for Chislehurst School for Girls, Bromley

Date of decision: 30 October 2023

Determination

I have considered the admission arrangements for September 2024 for Chislehurst School for Girls in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are 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 the determination.

The Referral

1. The London Borough of Bromley (the local authority and the referrer) referred an objection to the adjudicator under section 88H(2) of the School Standards and Framework Act 1998 (the Act) to the admission arrangements for 2024 (the arrangements). The objection was to the published admission number (PAN) for the school being set at 210, which was lower than the PAN of 224 for 2023 and previous years.
2. The parties to the case are the local authority and the trust.

Jurisdiction

3. The terms of the academy agreement between the admission authority and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools.
4. Regulation 22 of the School Admissions Regulations 2012, as described in paragraph 3.3 of the School Admissions Code (the Code), prohibits “objections to arrangements which raise the same or substantially the same matters as the adjudicator has decided on for that school in the last 2 years”. In a previous objection (case reference ADA3916), the local authority objected to the PAN set for 2023 where the same reduction from 224 to 210 had been made. A fellow adjudicator considered the objection and upheld the objection. As the local authority made the same objection in 2022, I could not consider it as an objection. However, as the arrangements had come to my attention and it appeared to me that they did not or may not conform with the requirements relating to admissions, I decided to use my power under section 88I of the Act to consider the matter of the PAN and to consider the arrangements as a whole.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the Code.
6. The documents I have considered in reaching my decision include:
 - a) the local authority’s referral dated 30 March 2023;
 - b) confirmation that the arrangements were determined and a copy of the determined arrangements;
 - c) comments from the admission authority on the matters raised; and
 - d) information available on the website for the school.
7. The referral regarding the arrangements was made on 30 March 2023. The case manager communicated with the local authority and the school’s governing board (which was at that time the admission authority for the school) on my behalf requesting further information and clarification on the matters raised following the referral and both parties responded. On 20 June I requested further clarification from the local authority on the information provided. Following reminders, the clarification was sent by the local authority on 1 August 2023.
8. I held a meeting with representatives of the trust and the local authority on Friday 8 September 2023 in order to clarify the arguments made by the parties. Subsequently, the trust wrote to the case manager on 23 October 2023 and said that the trust had varied the PAN increasing it from 210 to 224 for 2024 (as permitted by 3.6 of the Code).

Background

9. Chislehurst School for Girls (the school) is for girls aged between 11 and 18 and boys aged 16 to 18. It is located in Chislehurst in Bromley, London and the local authority area of the London Borough of Bromley (the local authority). The school is an academy school. I draw attention to the fact that at the time the 2024 arrangements were initially determined, the school was a single academy trust and its admission authority was the governing board (the governing board). On 1 September 2023, the school joined the Inicio Trust (the trust) and that is now the admission authority for the school.
10. On 31 August 2023, a representative of the governing board informed the case manager that the headteacher had proposed that the PAN should be increased to 224 for 2024. This was the PAN sought by the local authority whose initial objection was based on the reduction from that level to 210. It has since been confirmed to me that, on 4 October 2023, the trust exercised its power to increase the PAN to 224.

Consideration of the arrangements

11. I deal first with the issue of the PAN and can do so in short order. As the trust has now set the PAN at 224, which was the PAN desired by the local authority in its original referral of the matter to me, I have no reason to give further consideration to the PAN. The arrangements conform with the Code with regard to the PAN set. I note, however, that the admission arrangements on the school's website say that the PAN is 210 and this must be addressed in order for the arrangements to be clear.
12. I turn now to the arrangements as a whole. The case manager wrote to the admission authority on my behalf and explained my concerns on the following matters (with relevant paragraphs of the Code in brackets):
 - a. The definition of looked after children may be unclear (14, 1.7 and 1.8).
 - b. The arrangements imply that a place offered to a child who is looked after may be withdrawn if they are no longer looked after when the child starts school (14, 1.7 and 2.13).
 - c. The definition of the home address does not meet the requirement to set out clearly how the home address will be determined when parents have a shared responsibility for the child and live at different addresses (14, 1.8 and 1.13).
 - d. The information on the waiting list may not be clear (14 and 2.15).
 - e. The information on requesting admission out of the normal age group may not be clear (14, and 2.18).
 - f. The 2024 admission arrangements were not published on the school's website once determined (14 and 1.50).

13. I will now consider these matters in more detail in the order given above.

Definition of looked after children

14. Where there is oversubscription, first priority is given to looked after and previously looked after children. The relevant criterion says,

“A Looked After Children (Children in Public Care) a) CLA is a child who is

(a) in the care of a local authority, or being provided with accommodation by a local authority in the exercise of their social services functions. These children must still be “CLA” when the child starts school unless (b) applies.

b) or a child who was previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order (including those who appear to have been in state care outside of England and ceased to be in state care as a result of being adopted).”

15. Three different terms are used to describe looked after children and no explanation is given for the acronym ‘CLA’ which I assume to mean ‘children looked after’. This makes the arrangements unclear and so do not meet the requirements of paragraph 14 of the Code which requires arrangements to be clear.

Withdrawing the offer of a place made to a looked after child

16. The sentence, “These children must still be “CLA” when the child starts school unless (b) applies”. In other word, the child must still be looked after unless the child meets the description in (b) of a child that is now previously looked after. This implies that the offer of a place will be withdrawn if the child is no longer looked after (unless the child has been adopted) but rather, for example, returned to the care of a parent. Paragraph 2.13 of the Code says,

“An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application.”

17. It is my understanding that none of these circumstances would apply if the child ceased to be looked after because he or she had returned to the care of their parent. To include this proviso would therefore imply that the admission authority intends to act unlawfully.

Definition of the home address

18. The fourth criterion is the proximity of the child’s home from the school. The arrangements say, “‘Home’ being where the child normally resides as their only residence or split residence with the other parent/ guardian.” Paragraph 1.13 of the Code is concerned with distance used as an oversubscription criterion and says that, how distance will be measured **must** be clearly set out and this “should include

provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.” I do not know what is meant by the phrase “split residence with the other parent/guardian” in this context and so the arrangements are not clear in this regard. The arrangements do not meet the requirements of paragraphs 14 and 1.13 of the Code.

Information on the waiting list

19. The arrangements say, “The waiting list will be maintained in the order of the over-subscription criteria.” Paragraph 2.15 of the Code says,

“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.”

20. The requirements of paragraph 2.15 of the Code are not met as it is not clear for how long the waiting list will be maintained. While it is implicit that maintaining the waiting list in the order of the oversubscription criteria will involve re-ranking when a new child is added, this is not explicitly stated and so does not meet the Code’s requirement.

Information on admission of children outside their normal age group

21. Paragraph 2.18 of the Code is concerned with the admission of children outside their normal age group and says, “Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.” As there is no information on this matter, this requirement has not been met. I note that this matter was also raised in the previous determination (ADA3916).

Publication of admission arrangements

22. I looked at the admission arrangements on the school’s website when I first received the objection and could not find the admission arrangements for 2024. Paragraph 1.50 of the Code says,

“Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on the school’s website or their own website (in the case of a local authority) by 15 March in the determination year and continue displaying them for the whole offer year (the school year in which offers for places are made).”

23. This had not occurred as required and so the admission authority has not complied with the Code. As at the date of completing this determination, the arrangements had been published on the school’s website but had not been revised to reflect the PAN increase agreed by the trust on 4 October.

24. The trust has said it will address these matters as required and this is welcomed.

Determination

25. I have considered the admission arrangements for September 2024 for Chislehurst School for Girls in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

26. 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: 30 October 2023

Signed:

Schools Adjudicator: Deborah Pritchard