

15 September 2011

Dear

Re: Objections to the Determined Admissions Arrangements for Colston's Girls' School

Further to your objection to the determined admissions arrangements for Colston's Girls' School for the 2012/13 admission year I am writing to inform you that the Young People's Learning Agency (YPLA) has reached a decision on behalf of the Secretary of State for Education.

The YPLA is required to seek the advice of the Office of the Schools Adjudicator (OSA) before reaching any decision on objections to Academies' determined admissions arrangements. This enables the YPLA to draw on the OSA's expertise in admissions matters. The YPLA then reaches a judgement based on all the evidence and issues a decision to all parties on behalf of the Secretary of State.

The YPLA has considered all the relevant material including objections received and the OSA's Recommendation and believes the advice of the OSA to be appropriate. The YPLA has instructed the Academy Trust to implement in full the following Recommendation with regard to Colston's Girls' Schools arrangements for the 2012/13 admission year:

'In response to the Secretary of State's request for advice under section 25 of the School Standards and Framework Act 1998, I recommend that the objection by The Cabot Learning Federation to the admission arrangements for Colston's Girls School for 2012 be not upheld.

However I recommend that the admission arrangements be amended such that banding is applied to all admission categories.'

The OSA's full advice to the Secretary of State, setting out the objections and the Adjudicator's response to them, is enclosed for your information.

I am also copying this letter to the Chair of Governors of Colston's Girls' School.

Yours sincerely

Ruth Bullen

Director of Academies Programme Management

Copy to: Chair of Governors at Colston's Girls' School

RECOMMENDATION TO THE SECRETARY OF STATE

Case reference: ACA/000017

Objector: The Cabot Learning Federation

Admission Authority: Colston's Girls School Academy

Date of decision: 18th August 2011

RECOMMENDATION

In response to the Secretary of State's request for advice under section 25 of the School Standards and Framework Act 1998, I recommend that the objection by The Cabot Learning Federation to the admission arrangements for Colston's Girls School Academy for 2012 be not upheld.

However I recommend that the admission arrangements be amended such that banding is applied to all admission categories.

The referral

1. The Cabot Learning Federation, which comprises John Cabot Academy, Bristol Brunel Academy and Bristol Metropolitan Academy ("The Federation"), has referred an objection to the Secretary of State about the admission arrangements ("the Arrangements") for Colston's Girls School Academy ("CGSA") for September 2012. Specifically CGSA's intention to increase its published Year 7 admission number (PAN) from 112 to 140.

Jurisdiction

2. The Arrangements were determined by the governors of CGSA as its admissions authority. The Objector submitted the objection on 27th June 2011 and, in accordance with Section 25 of the School Standards and Framework Act 1998, the Secretary of State sought my advice via the Young People's Learning Agency (YPLA).

Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code ("the Code").
4. The documents I have considered in reaching my decision include:
 - The Arrangements as published on the CGSA website.
 - The CGSA business case for expansion.
 - Responses to CGSA's consultation on its plans.
 - The Federation's letter of objection of 27th June 2011, previous email correspondence and further representations submitted at and following the meeting mentioned below.
 - CGSA's response of 1st July 2011, at the meeting and subsequently, with supporting documents, including maps showing the distribution of the home addresses of girls

who have joined the school in the last three years.

- Comments and data provided by Bristol City Council (the “LA”).
5. I have also taken account of information received during a meeting I convened at the school, involving representatives of the Federation, CGSA and the LA and on 28th July 2011.
 6. In addition to investigating the matters raised by the objector, I have also reviewed CGSA’s Arrangements as a whole and I am recommending one change additional to matters relating to the objection.

Context & Background

7. Until recently Colston’s was one of four independent schools for girls in Bristol. In 2008 the school became an Academy and, since there are no similar maintained schools, it is the only publicly funded school in Bristol that provides a single sex education for girls. Additionally, the popular all girls’ school in Bath, Oldfield Park which recruits approximately one quarter of its current intake from Bristol, is due to become co-educational in September 2012.
8. On becoming an Academy, CGSA increased its intake. As a formerly independent institution the school did not have a formal PAN as such, and its intake varied from year to year but did not usually exceed 84 girls. On designation as an academy the PAN was set at 112 and CGSA embarked on some improvements and expansion of the premises on its existing site which are now largely completed. CGSA has proved popular with parents and is significantly oversubscribed. In its first year of operation (2008/09) there were 178 applicants for 112 places; rising to 388 in 2009/10 and 431 in the current round. In November 2010 CGSA was subject to a section 5 inspection by Ofsted which awarded a grade 1 which means “outstanding”.
9. In response to its popularity and success CGSA decided it would like to expand and identified suitable vacant premises nearby which would allow for the capacity of the school to be increased. In accordance with the procedures set out in Annex B to its funding agreement it undertook local consultation and submitted a business case to the YPLA seeking the approval of the Secretary of State to proceed.
10. The business case included reference to consultation responses including letters of support from a number of primary schools and a local resident. However two local authorities (Bristol City Council and South Gloucestershire Council) indicated that they did not support the proposals and six letters of opposition were received from Bristol secondary schools:
 - Brislington Enterprise College.
 - Cabot Learning Federation (representing three schools).
 - Henbury School.
 - Orchard School.
 - St Bede’s Catholic College.
 - St Mary Redcliffe & Temple.
11. Following submission of the business case the Federation wrote to the YPLA reiterating its concerns and lodging a formal objection. The case was therefore referred to me with a request for advice.

The Objection

12. In summary, the CGSA consultation proposal argued that it is becoming increasingly oversubscribed; the acquisition of new premises would allow the school to accommodate the additional numbers that this would produce and that it should be allowed to admit up to this number in order to respond to parental preferences. It said its single sex status made the school particularly attractive to many parents for cultural or religious reasons and the conversion of another girls' school in the adjacent area of Bath to become co-educational will reduce this particular element of choice for parents. It further argued that significant numbers of Bristol parents seek school places outside the City and a greater number of places at a popular and successful school would attract some of these back. It also suggested that CGSA was seen as a serious option for some parents who would otherwise take up places in the private sector.
13. Those submitting responses to consultation made a number of points.
- In all cases they drew attention to the fact that there are already surplus school places in Bristol and that there is no indication of demographic pressures which would point to more places being needed.
 - Concerns were expressed about the impact on other schools both in terms of total numbers, diversity and gender balance.
 - The move to expand unilaterally undermined the existing partnership amongst Bristol secondary schools.
 - Some pointed out that they, too, were oversubscribed but did not wish to expand because of the detrimental effect on other schools.
 - Several challenged the suggestion that a PAN of 112 was unsustainably small for a secondary school. CGSA had in fact been smaller when it was in the private sector and there was no reason to revisit the increased PAN that had been set when it became an Academy only three years previously.
 - Some also suggested that the argument that the additional pupils would be likely to be drawn from those who would otherwise have gone into the private sector was not only speculative but was also contrary to the declared purpose of the academy movement which was to raise standards and aspirations for the disadvantaged.
14. In its letter to the YPLA, and at the meeting I held, the Federation reiterated and expanded upon the themes that emerged during consultation:
- Rejecting the notion that an increase was necessary for reasons of financial viability of the school.
 - Suggesting that the impact on other schools had been underestimated.
 - Disagreeing with the argument that additional pupils will be drawn from those who would otherwise go to private schools, but if true it would be socially divisive.
 - Its admissions policy, which selects by aptitude for languages and applies banding arrangements only to the remaining 90%, skews CGSA's social and ability profile.
 - Expressing fears that the impact of the change would be felt in the immediate local area rather than being more widely distributed.
 - Emphasising the long term impact on the gender balance in local co-educational schools.

The CGSA Response

15. In its business case and responses to comments made during consultation CGSA pointed to its recent Ofsted inspection report; the strength of demand from parents - as evidenced by the number of appeals; and the fact that many parents choose to look for school places outside the city or in the private sector. On the bases of data from the

first three years of operation it calculated that fewer than half of the 28 additional pupils it had recruited annually would otherwise have gone to Bristol City schools.

16. The CGSA business case concluded: *"It would be fair to say that there is strong opposition to our proposal from local secondary schools. We experienced the same opposition when it was mooted that we became an academy. There is, within the city a feeling that parental choice is destroying the system of community schools. However, the evidence is strong that parents are still choosing not to send their children to Bristol schools. There are surplus places within other secondary schools which parents are refusing to fill. In appeals, parents are asked about their local school and are vehement that they will not allow their child to go to the allocated school. We simply wish to extend our excellent education to more pupils within Bristol."*

Consideration of Factors

Legalities

17. Because GCSA is an Academy, this decision has the formal status of advice to the Secretary of State. However, in considering my advice, I have followed the processes and taken account of the legislation and statutory guidance that would have applied to a school in the maintained sector.
18. This case arises as a result of a decision to seek approval of a PAN increase and has been subjected to an objection in terms of the provisions of the School Admission Code. However, the changes also include expansion of the premises onto a separate site (albeit one which is very close to the existing one). That level of expansion, by 25% of places (increasing from $4 \times 28 = 112$ to $5 \times 28 = 140$) would, in the case of a maintained school, trigger a requirement for statutory notices under the prescribed alteration regulations. Although those regulations do not actually apply, I have taken into account the statutory guidance so far as it is pertinent to the consideration of such a proposal.
19. The relevant guidance includes a presumption in favour of allowing "popular and successful" schools to expand. The popularity of CGSA is evidenced by its level of oversubscription and admission appeals; and recent Ofsted reports attest to its success. The presumption would therefore clearly have applied in this case and it would be necessary for me to find strong evidence of detriment arising from the proposed expansion to recommend upholding the objection.

Need and Demand for additional School Places

20. The objectors have argued that there is no 'need' for additional school places in the area; whilst CGSA has pointed to the unmet parental 'demand' for places at their school. Both are correct; so the task is to consider whether the benefit to be derived from increasing the satisfaction of parental demand for this particular school would be outweighed by any social or material costs arising from carrying excess capacity elsewhere in the system or distortion of the intake to other schools. In addition to the straightforward projection of supply and demand for school places, the fact that CGSA admits only girls, and the potential impact of the home address, ability and social mix of the additional pupils that might be recruited, are relevant considerations.
21. I have examined a document published by the Local Authority which analyses supply of school places against projected future demand. This shows that, for 2011, the number

of pupils attending schools in the part of Bristol where CGSA is located (the East Central area) is sufficient to occupy only 85% of the total capacity. However the document also shows surpluses are not evenly distributed across the city and overall demand is set to increase such that additional capacity is likely to be needed from 2018 onwards.

22. For planning purposes the LA divides the city into three areas: North, South and East Central where CGSA is located. The city has an under-19 population of approximately 91k with 29k resident in East Central, but there are proportionately fewer Y7 to Y11 secondary places: 4.6k as against 6.1k and 8k for the other two areas. Across the city there are 3,725 Year 7 places. The admissions policy of CGSA for Y7 currently takes 75 girls on random allocation from within the city area 25 beyond it and 12 (who could come from anywhere) on the basis of a language aptitude test. As a result, approximately one third of the 75 in-city intake, and an unquantifiable proportion of the 12 'aptitude' places, might be expected to be drawn from each of the three City areas. There are approximately 900 Y7 places in the East Central area, 450 of which can be assumed to be for girls and 29 of which are accounted for by CGSA. Across the whole city the equivalent figures would be 3,725, 1,862 and 85 respectively. The impact of the expansion proposal would be to increase the CGSA figures by 25%, namely to 36 representing approximately 8% of girls in the East Central area, and to 106 representing approximately 6% of girls across the whole City area.
23. I have checked these theoretical calculations against maps plotting the distribution of the addresses of girls who have joined CGSA in the last three years and they seem to be consistent with the assumptions I have made. Since there are 20 mixed secondary schools in the city, the impact on any one other school would, on average, fall between the recruitment of one and two fewer girls per intake and 7.4 across all year-groups. The impact is highly unlikely to be more than three or four for any one school, even in an exceptional year. These figures could be further reduced if CGSA is correct in its arguments that it attracts applicants from within the city who would otherwise go to alternative provision outside, or in the private sector. However this would make only a marginal difference to what are already small numbers. It would therefore be otiose to come to a view on what is, in any event, a speculative debate.
24. On the basis of these figures it is difficult to conclude that approval of this proposal would have anything other than a marginal effect on overall provision across the city. However the parents of the 28 additional girls to be offered places would undoubtedly be delighted.

Capacity of the Buildings

25. A key issue for determining the PAN is the physical capacity of the school. This is broadly established by the net capacity assessment (NCA) which gives a measure of capacity on the basis of a consistent national methodology. However the circumstances and configuration of schools vary and the particular characteristics of some sets of buildings also have an impact on how many children the site can accommodate without being overcrowded. It is partly for this reason that the methodology yields a range rather than a precise figure.
26. In this case, because GCSA is an academy, no formal NCA assessment has been carried out. Of course premises will have been an important consideration for the Secretary of State on the acceptance of the school for conversion to academy status. I was also given to understand that the, shortly to be completed, development

programme will leave the school with accommodation that is generous for its existing numbers. I also saw the new premises that the school will lease if the proposal is approved from the outside, but was not able to inspect the interior. Therefore, in the absence of firm evidence, I am not in a position to say categorically that the premises will be sufficient and suitable for the proposed expansion. However I saw nothing that would lead me to doubt what I was told. Since this is advice, rather than a legally binding decision, and the YPLA is in a position to satisfy itself directly, I will make no further comment on this point.

Financial Aspects

27. Two financial questions arise in the case of school organisation: the availability of necessary capital and the sustainability of revenue budgets. As noted above, the school is just completing a significant programme of capital expenditure and the new premises are to be acquired by lease rather than new-build or capital purchase. There will need to be some internal partitioning and refurbishment but the school does not expect these costs to be large. The school is also confident that the additional premises costs will be contained within the expanded budget that will come with larger numbers.
28. I have not scrutinised detailed evidence on these matters but I saw nothing that would lead me to doubt what I was told. As before, the YPLA is in a position to satisfy itself – if it has not already done so – on these questions, so it is not necessary for me to comment further.
29. The budgetary impact of the overall size of the school was, however, part of the debate between the parties. The business case for expansion argued that being a small school was disadvantageous and increasing capacity would allow the school to take advantage of economies of scale. This, in turn, would lead to improvements in the quality of education it was able to offer. The objectors argued that CGSA is not ‘small’ by national standards; that it is already larger than it was as an independent school; and, that there are many successful rural secondary schools of a similar size. There was therefore no cogent economic argument for expansion.
30. Once again, both parties’ arguments are correct in their own terms. It is undoubtedly the case that larger schools benefit from economies of scale; although this effect is mitigated by formula funding arrangements which tend to compensate smaller institutions for their diseconomies of small scale. It is also correct that, whilst significantly smaller than average for a secondary school, there is no evidence that CGSA is unviable at its current size. However, whilst this consideration was included in the business case, the fact that the school could remain viable at its current size is not a strong argument against expansion.

Impact on other schools

31. The LA, quite reasonably, is concerned to avoid carrying too many surplus places. Where surpluses already exist, increases at one school will reduce take-up elsewhere and, it is argued, could threaten the viability of other schools. However, as noted above, the total effect is small in numerical terms and the CGSA admissions policy ensures that this is distributed across a wide area. This in turn means that the impact on any one school is likely to be less than if the effect were to be concentrated in a small local area. Further as set out in the code in paragraph 1.22 “The existence of surplus capacity in neighbouring Schools should not in itself be sufficient to prevent expansion”.
32. The objectors have argued that the impact on the quality of education in other schools

will be magnified by the gender and likely ability profile of the particular individuals involved. They also said that it would tend to exacerbate gender imbalances that already exist in some local schools. It is beyond dispute that all additional pupils at CGSA will be girls, and it is a matter of fact that girls generally out-perform boys academically. It is also well established that a significantly disproportionate gender balance, particularly when girls are in a minority, can create problems for schools with negative consequences for pupil attainment. These arguments should not therefore be dismissed out of hand.

33. I obtained data on the current gender balance, year-group by year-group, in the 20 Bristol co-educational schools (taken from the January 2011 census). For years 7 to 11, seven schools have an exact 50% split (rounding to whole numbers). A further 9 have a broadly balanced population with the figures falling between 49% / 51% and 47% / 53%; two of which have more girls than boys. That leaves four outliers.
- The Bridge Learning Campus has a small cohort with between 113 and 148 pupils in different year-groups. Girls outnumber boys at all ages giving a cumulative total of 46 more girls than boys and an overall 54% / 46% split.
 - Redland Green School also has a 54% / 46% split but this time with more boys than girls. However closer inspection shows this to be an artefact of an exceptional year 7 group where the school accepted 74 girls and 115 boys. Years 8 to 11 have an exact 50% balance with more girls in Years 8 & 11 and more boys in years 9 & 10.
 - The City Academy, Bristol has a 43% / 57% split with more boys in every year group and a total of 130 more male individuals overall.
 - The Bristol Cathedral Choir School is a small, but expanding, specialist institution. The current 41% / 59% split masks a changing situation which is gradually moving towards greater equality. Year 11 has 14 girls and 35 boys; whilst Year 7 has 55 girls and 50 boys.
34. The majority of Bristol schools do not have a significant gender balance problem. Amongst the outliers one actually has an excess of girls and the circumstances of two of the others are likely to be explicable by specific individual factors. It is only the City Academy, Bristol (which is not one of the objecting schools) that has consistently suffered from a significant under-recruitment of girls. This is evident across all year groups up to year 13, but seems actually to have become less severe during the last three years - since CGSA joined the public sector. It is therefore hard to argue that recruitment of girls by CGSA has previously been a factor for this school, or that it will necessarily suffer significant detriment if the expansion proposal goes forward.
35. Given the facts outlined above, I do not consider that the potential impact on the gender balance in other schools would justify upholding the objection.
36. The arguments relating to the social composition of the CGSA intake are both more complex and more speculative. To some extent both sides have deployed contradictory arguments. CGSA has rejected the charge of social exclusivity but also claimed that there will be less impact on other local publicly funded institutions because of its attractiveness to applicants who would otherwise seek places outside Bristol or in the private sector. On the other hand the objectors have claimed that expansion will have a disproportionate effect on local schools, whilst accusing CGSA of neglecting the deprived population of the St Paul's district that lies on its doorstep.
37. It is difficult to obtain hard data either to establish or to falsify these various claims. However it is clear to me that the admissions policy which applies to the bulk of the intake, will result in an academically balanced intake which avoids 'covert selection' and

is blind to wealth, social class or ethnic background. The use of a leading commercial ability test with nationally standardised results to establish bands, and random allocation across a wide area to choose applicants within them, is probably the best method of achieving that outcome.

38. The same cannot be said of the 12 places that are currently allocated according to performance in the language aptitude test. I note here in passing that, strictly speaking, this number should be 11, as 12 represents more than 10% of the current annual intake. This problem will disappear if the increase is allowed; as 14 is exactly 10% of the proposed new PAN.
39. There is a live academic debate as to whether it is technically possible to separate innate aptitude for a particular subject from either general ability or prior learning in the subject in question. It has also been observed that those who do well in aptitude tests tend also to be drawn disproportionately from generally higher performing and more advantaged social groups. CGSA reported that its own experience of administering aptitude tests alongside its banding system was that by no means all of those who did well on aptitude tests were congregated in the highest band. Nevertheless they were not evenly distributed either, with a definite bias towards the higher ability bands. Thus, the fact that the 'aptitude' places are awarded separately, rather than being allocated to their appropriate band, will have a small skewing effect on the otherwise comprehensive social and ability profile of the school.
40. I would also point out that whilst the current CGSA policy was consistent with the 2007 Admissions Code (the version that was in force when CGSA was established as an Academy) the arrangements have not been updated to take account of subsequent changes and is no longer compliant with the 2010 version that is currently in force (see paragraphs 2.78, 2.82, 2.83 and 2.89.) Banding must now be applied to the whole intake including those who are accepted on the basis of their aptitude as well as by random allocation.

Conclusions

41. For the reasons set out above I conclude that:
 - Increasing the PAN of CGSA by 28 places would be likely to have only a marginal effect on overall provision of school places across the city; but the increased satisfaction of parental preferences will be much appreciated by those who benefit.
 - Although I was not in a position to scrutinise detailed evidence, there was no obvious financial or premises related issues that would present an obstacle to the proposed expansion.
 - The potential impact on the gender balance, social mix and quality of education offered in other schools, is likely to be too small to justify upholding the objection. I will therefore recommend that the proposed expansion of the school should be allowed to proceed.
42. However I formed the view that there was a degree of cogency in the objectors' critique of the CGSA approach to selection on the basis of aptitude for languages, which is anyway inconsistent with the Code. I will therefore also recommend, irrespective of the outcome of the expansion proposal, that the admissions arrangements should be modified such that the banding system covers 100% of the intake, rather than 89% as at present.

Determination

43. In response to the Secretary of State's request for advice under section 25 of the School Standards and Framework Act 1998, I recommend that the objection by The Cabot Learning Federation to the admission arrangements for Colston's Girls School Academy for 2012 be not upheld.
44. However I recommend that the admission arrangements be amended such that banding is applied to all admission categories.

Date: 18th August 2011

Signed:

School Adjudicator: Alan Parker