



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA2920

**Objector:** Hertfordshire County Council

**Admission Authority:** The Academy Trust for The Bushey Academy,  
Hertfordshire

**Date of decision:** 29 July 2015

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the parts of admission arrangements determined by the academy trust for The Bushey Academy, Hertfordshire that are within my jurisdiction.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that an aspect of the arrangements does not conform with requirements relating to admission arrangements.**

**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 as required by the Code.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by Hertfordshire County Council (the objector), about the admission arrangements (the arrangements), for The Bushey Academy (the school), an academy school for children aged 11 to 18 for September 2016. The objection is to in-year admission arrangements; the definition used by the school of previously looked after children and one aspect of the arrangements for admission to Year 12.

### **Jurisdiction**

2. The terms of the academy agreement between the academy 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 governing body on behalf of the academy trust, which is the admission authority for the school, on that basis.

3. The objector submitted the objection to these determined arrangements on 19 June 2015. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act.
4. The jurisdiction of the schools adjudicator does not include in-year admissions. I will therefore not be considering that part of the objection. I am satisfied that the other two parts of the objection are within my jurisdiction. I have also used my power under Section 88I(5) of the Act to consider the arrangements as a whole.

### **Procedure**

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
  1. the objector's form of objection dated 19 June 2015;
  2. the school's response to the objection and supporting documents;
  3. confirmation of when consultation on the arrangements last took place;
  4. a copy of the minutes of the meeting at which the governing body for the school determined the arrangements; and
  5. a copy of the determined arrangements.

### **The Objection**

7. The first and main part of the objection was to the school limiting the number of in-year admissions to three per cent of the year group. Admission to year groups other than a relevant age group, that is for this school Year 7 and Year 12, is outside my jurisdiction and I cannot consider this matter further.
8. The second part of the objection is that the description of previously looked after children in the arrangements refers to residence orders rather than child arrangement orders as set out in paragraph 1.7 of the Code and its footnotes.
9. The third part of the objection is that the sixth form arrangements refer to a published admission number (PAN) of 154 and give priority to existing Year 11 pupils within this PAN rather than setting a PAN for external students applying for a place in the sixth form as required by paragraphs 1.2 and 2.6 of the Code.

### **Other Matters**

10. I looked at the school's website on 30 June 2015. The website says

that an application form for the sixth form could be found in the sixth form prospectus. I could not find an application form in the prospectus. The Code requires admission authorities to publish their arrangements which include any application forms used by the school. The school provided me with a sixth form application form for 2016 and this appeared to me not to comply with the Code as it requested information prohibited by paragraph 2.4.

## **Background**

11. The Bushey Academy was established in 2009, it has a PAN of 210. The oversubscription criteria for admission in Year 7 and Year 12 are the same and can be summarised as:
1. Looked after and previously looked after children.
  2. Siblings of children who will be on roll when the child starts school.
  3. Other children on the basis of proximity to the school with those living nearest having priority for places.

## **Consideration of Factors**

12. I have noted that during consultation on the arrangements, the objector in its role as LA pointed out to the school the change from 'residence orders' to 'child arrangements orders' in the definition of previously looked after children. The former term continues to appear on the determined arrangements although the school did write to the LA saying the change had been made.
13. The school has acknowledged that the wording is incorrect and says this was "*an administrative oversight*". The school has undertaken to amend the wording of its arrangements to comply with paragraph 1.7 of the Code.
14. In its objection the LA said "*6<sup>th</sup> form arrangements refer to a PAN of 154 and prioritisation of existing Year 11 pupils, rather than setting a PAN for external students*".
15. The arrangements have a section headed "*Post 16 admission criteria*". In the first paragraph it says "*The PAN for Year 12 (the year 12 capacity) is 154. Sixth Form places will be firstly allocated to existing Year 11 students who wish to continue their education in the academy's Sixth Form. All remaining places will be offered to outside applicants.*"
16. Paragraph 1.2 of the Code says "*all admission authorities must set an admission number for each 'relevant age group'*". This paragraph has a footnote defining 'relevant age group', "*This is the age group at which pupils are or will normally be admitted to the school e.g. reception, year 7 and year 12 where the school admits external applicants to the sixth form*". Later in the Code paragraph 2.6 explains that pupils in Year 11 are already on roll at the school and do not need to apply for a place in

the sixth form, they transfer automatically if they meet any academic requirements set by the school. The PAN is for students who wish to join the school for the first time in Year 12.

17. The school has acknowledged that "*there has been some misunderstanding and confusion about sixth form capacity and a Year 12 PAN.*" The school has sought advice on this issue and is proposing to amend the wording of this part of the arrangements.

18. I uphold the objection on these two issues.

### **Other Matters**

19. Paragraph 1.47 of the Code says that after determining its arrangements an admission authority "**must** publish a copy of the determined arrangements on their website". The application form for the sixth form is part of these arrangements so should have been available on the school's website at the same time as the other parts of the arrangements. I was unable to find a copy of this form on the website on 30 June 2015 or 21 July 2015.

20. Paragraph 2.4 of the Code says "*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They **must not** ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above*".

21. At my request the school provided me with a copy of the sixth form application form for 2016. The form provided by the school asked for the applicant's gender, nationality and details about their current school. None of these are required to make decisions about the oversubscription criteria for sixth form places and are therefore prohibited by the Code. The form also asked for the signature of both the student and their parent or guardian. Applications for sixth form places may be signed by either the student or by the parent or guardian, both signatures cannot be required.

### **Conclusion**

22. For the reasons set out above I uphold the two parts of the objection which are within my jurisdiction. I commend the school for quickly acknowledging that these two aspects of the arrangements did not comply with the Code and agreeing to take steps to rectify matters.

23. I have also concluded that the application form used by the school for entry to Year 12 does not comply with requirements.

### **Determination**

24. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the parts of admission arrangements determined by the academy trust for The Bushey Academy, Hertfordshire that are within my jurisdiction.

25. I have also considered the arrangements in accordance with section 88I(5). I determine that an aspect of the arrangements does not conform with requirements relating to admission arrangements.

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 as required by the Code.

Dated: 29 July 2015

Signed:

Schools Adjudicator: Phil Whiffing