



Office of the Schools Adjudicator

Determination

Case reference: ADA3786

Objector: An individual

Admission authority: The Governing Board of Bexley Grammar School, Bexley

Date of decision: 17 August 2021

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, Mrs Talboys and I uphold the objection to the admission arrangements for September 2022 determined by the Governing Board of Bexley Grammar School for Bexley Grammar School, Bexley. The school's admission arrangements have now been published on the school's website, therefore no further action needs to be taken.

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 an individual, (the objector), about the admission arrangements (the arrangements) for Bexley Grammar School (the school), a selective academy school for girls and boys aged 11-18 for September 2022. The objection is to the fact that, at the time the objection was made, the school's admission arrangements were not published on the school's website.
2. The local authority (LA) for the area in which the school is located is the London Borough of Bexley. The LA is a party to this objection but has made no comment. Other parties to the objection are the school and the objector.
3. This is one of a number of objections to the admission arrangements for September 2022 for different schools referred to the Office of the Schools Adjudicator by the same objector. Mrs Ann Talboys and I have been appointed as joint adjudicators for these objections as permitted by the Education (References to Adjudicator) Regulations 1999. I have acted as the lead adjudicator for this case and have drafted this determination.

4. Some of the objections contain aspects which are common to several other objections. We are aware that the objector has made objections to other schools in previous years about these same aspects which have been determined by different adjudicators. We have read the relevant previous determinations and taken them into account. Previous determinations do not form binding precedents upon us, and we have considered each of these aspects afresh. The approach we have taken is to discuss each of the common aspects in the objections which have been made this year and agree the wording of our determinations in relation to those aspects. Some identical wording will appear in each of the determinations in relation to these common aspects.

5. The objector has made one other objection this year about admission arrangements not being published on the school's website. As the lead adjudicator for both objections, I have written the determinations which have been read and agreed by Mrs Talboys prior to publication.

Jurisdiction

6. 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 board, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 14 April 2021.

Procedure

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

8. The documents we have considered in reaching our 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 objector's form of objection dated 14 April 2021; and
- d. the school's response to the objection.

The Objection

9. The objector drew to our attention the fact that, as of 14 April 2021, the admission arrangements for the school had not been published on the school's website. Paragraph 1.46 of the Code requires that "All admission authorities must determine (i.e., formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Admission authorities must determine admission arrangements for entry in September 2016 by 15 April 2015 and for all

subsequent years, by 28 February in the determination year. Paragraph 1.47 of the Code states that “Once admission authorities have determined their admission arrangements, they must notify the appropriate bodies and must publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made)”. Regulation 18 of the School Admissions Arrangements and Coordination of Admission Arrangements (England) Regulations 2012 provides that local authorities must publish their arrangements by 15 March in the determination year.

Background

10. The school is a coeducational selective academy school for pupils aged 11-18. The Published Admission Number PAN for Year 7 is 192. We have not considered it necessary to summarise the full over subscription criteria here, as is our normal practice, because the only aspect of the arrangements relevant to this objection is that in April of this year the admission arrangements for the school had not been published on the school’s website.

Consideration of Case

11. As we have said above, once admission authorities have determined their admission arrangements, they are required to notify the appropriate bodies and must publish a copy of the determined arrangements on their website displaying them for the whole offer year. Since the requirement is to determine admission arrangements for September 2022 by 28 February 2021 and to then publish those arrangements by 15 March 2021, the case manager asked on our behalf why this had not been done. The school explained that it had understood the requirement in paragraph 1.47 to mean that the arrangements needed to be published by September 2021 in order to be displayed from the beginning of the first term in 2021. The school asked us for clarification of the meaning of relevant paragraphs of the Code, indicating that it was perfectly happy to publish the arrangements, but had thought that it was not yet obliged to do so at that point in time.

12. The case manager wrote to the school by email on 13 July 2021 on our behalf explaining I understood why the school had interpreted the requirement in paragraph 1.47 of the Code to mean that admission arrangements need only be published from the beginning of the school year in which offers will be made but that I considered that this was not a correct interpretation of the requirement in question. The email explained that regulation 18 of the School Admissions Arrangements and Coordination of Admission Arrangements (England) Regulations 2012 provides that local authorities must publish their arrangements by 15 March in the determination year, ad that academies schools are obliged to follow the legal requirements which apply to local authorities and other admission authorities for maintained schools. The ESFA have clarified in Guidance that the requirement to publish admission arrangements by 15 March in the year of determination applies to academies. The Guidance says: “Admission authorities must have determined their arrangements for entry in September 2022 by 28 February 2021. They must publish them on their website and have sent a copy to their local authority before 15 March 2021. Academies are their own admissions authority and must meet all the mandatory provisions

of the School Admissions Code (the Code) that came into force on 19 December 2014 except where variations have been written into their funding agreement to support fair access". The email contained a link to the relevant Guidance: Academy admissions - GOV.UK (www.gov.uk) which also sets out a checklist of admissions requirements for academies. The school responded quickly on 14 July 2021 confirming that the admission arrangements for September 2022 had been published on the school's website.

13. We are grateful to the school for its cooperation in this matter. Since the arrangements have now been published, we considered carefully whether we could avoid having to write and publish a formal determination. However this course of action has not been possible. Upon receipt of an objection, adjudicators have a duty under section 88H(4) of the Act to make a determination about whether or not to uphold that objection and a duty under section 88K(3) to publish a report of the decision. Accordingly therefore we must formally uphold this objection and publish our decision even though the school has now complied with the requirement to publish its arrangements.

Summary of Findings

14. We find that the school's admission arrangements for 2022 were not published on the school's website by 15 March 2021. We also find that the school has now published the arrangements as required.

Determination

15. In accordance with section 88H(4) of the School Standards and Framework Act 1998, Mrs Talboys and I uphold the objection to the admission arrangements for September 2022 determined by the governing board of Bexley Grammar School for Bexley Grammar School, Bexley. The school's admission arrangements have now been published on the school's website, therefore no further action needs to be taken.

Dated: 17 August 2021

Signed:

Schools Adjudicator: Marisa Vallely

Schools Adjudicator: Ann Talboys