



## DETERMINATION

<b>Case reference:</b>	<b>ADA2589</b>
<b>Referrer:</b>	<b>A member of the public</b>
<b>Admission Authority:</b>	<b>Bexleyheath Academy governing body on behalf of the London Academies Enterprise Trust</b>
<b>Date of decision:</b>	<b>7 July 2014</b>

### **Determination**

**In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for the Bexleyheath Academy determined by the Bexleyheath Academy governing body under the London Academies Enterprise Trust for admissions in September 2014 and September 2015.**

**I determine that there are matters as set out in this determination that do not conform with the 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 as quickly as possible.**

### **The referral**

- 1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act), the admission arrangements (the arrangements) for September 2014 for the Bexleyheath Academy (the school), an academy school for children with age range 11 – 19 years have been referred to the Adjudicator by a member of the public. The school is located within the London Borough of Bexley which is the local authority (LA) for the area. The referral concerned the lack of published arrangements for admission to the sixth form and raises concerns about interviews that have taken place for external applicants seeking places in the sixth form.**

### **Jurisdiction**

- 2. The terms of the funding agreement between the London Academies Enterprise Trust and the Secretary of State for Education require that the admissions policy and arrangements for the Bexleyheath Academy are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body for the Bexleyheath Academy on behalf of the London Academies Enterprise Trust, which is the admission authority for the academy school, on that basis.**

3. The arrangements for admissions in 2014 were brought to my attention on 1 April 2014. The referral was submitted after the deadline of 30 June 2013 for objections relating to admissions in September 2014. However I have used my power under section 88I(5) of the Act to consider the arrangements. I have also used my power under section 88I(5) of the Act to consider the published arrangements for 2014 for Year 7 admissions. The 2015 admission arrangements for Year 7 and Year 12 had not been determined at the time the referral was made. However, once these had been determined on 21 May 2014 I used my power under section 88I(5) of the Act to consider these arrangements.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents and sources I have considered in reaching my decision include:
  - a. the referral dated 1 April 2014;
  - b. the school's response to the referral and subsequent correspondence;
  - c. the school's website;
  - d. the LA's response to the referral and supporting documents;
  - e. the LA's composite prospectus for those seeking admission to schools in the area in September 2014; and
  - f. the school's determined arrangements for September 2015 admissions to Year 7 and Year 12 as agreed by a subcommittee of the governing body on 21 May 2014.

### **The Referral**

6. The referrer drew attention to the lack of published admission arrangements for admission to the sixth form relating to admissions in 2014. The referrer also reported concerns about interviews that external applicants for places at the sixth form have been required to attend saying that these interviews are believed to be in contravention to paragraph 1.9(m) of the Code.

### **Background**

7. The school became an academy on 1 September 2011 under the sponsorship of the London Academies Enterprise Trust. The governing body is responsible for determining the arrangements on behalf of the Trust. The governing body determined arrangements for the 2014-2015 arrangements on 26 June 2013 and had not determined the arrangements for 2015 at the time the arrangements were brought to my attention. This matter has now been rectified and the arrangements for September 2015 are on display on the school's website.

### **Sixth form admission arrangements for September 2014**

8. Two issues were raised about the 2014 sixth form admission arrangements. The first was that there were no current arrangements for admission to the sixth form on the school's website and the second was that the school

required applicants to attend a selection interview as part of the admission arrangements to the sixth form.

9. I shall deal with the lack of sixth form admission arrangements first. There were no current admission arrangements for the sixth form displayed when I looked on the school website on 7 May 2014. I was able to locate arrangements dated 2011 but none for 2013, 2014 or 2015. At the time, therefore, the school was not compliant with paragraph 1.47 of the Code which requires determined arrangements to be displayed on the school's website.
10. The second issue concerned the use of an interview for external applicants to the sixth form. Paragraph 1.9(m) of the Code says that "*schools **must not** interview children or parents. In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this meeting cannot form part of the decision making process on whether to offer a place.*" The school sent me a copy of the letter used to invite applicants for the sixth form to interview and a copy of the letter used to confirm places in the sixth form conditional upon achieving the required grades in the summer examinations. In its explanation to me about the interviews, the school said that the interviews were not a part of the selection process, but were used as part of the information, advice and guidance system to help ensure that applicants were choosing courses that were best suited to their needs and for which they were likely to be able to attain the necessary minimum grades.
11. However, on reading the letter sent to applicants, the first point is that the applicant is invited to an "interview", when it is clearly stated in the Code that a school must not interview. The applicant is advised that they will be asked a number of questions including: "why they want to take the subjects they have chosen" and "what they can contribute to the academy if offered a place in the sixth form". The letter does not make it clear that the interview is not part of the admission arrangements and that if an applicant does not attend it has no bearing on the success or otherwise of their application. The lack of clarity in the letter about this leaves the recipient of the letter with the impression that the interview is a selection interview and there is no evidence that applicants are made aware by other means that it is not a selection interview or how the school uses the information gained in the interview. The use of the word interview and asking about anything other than possible courses mean that I am of the view that the school's arrangements are not compliant with paragraph 1.9(m) of the Code.

### **Other matters concerning the 2014 arrangements**

12. On 7 May 2014, when I searched for admission arrangements on the school's website, there were no admission arrangements for September 2014 on display and the most recent set of arrangements was headed "2012-2103 admissions policy" and it appeared to refer to admissions at Year 7 and there were no admission arrangements relating to admissions at Year 12 for the sixth form.

13. From the information that was available to me from the school's website I was unable to ascertain when the arrangements for 2014 had been determined and whether any consultation had taken place.
14. I obtained a copy of the 2014 arrangements from the school and compared these with the 2014 arrangements for admission at Year 7 as published within the LA's composite prospectus for 2014-2015 and observed that there was a different order in the oversubscription criteria published in the two documents.
15. I raised some detailed points with the school about these published arrangements. The points concerned:
  - reducing the complexity of the phrasing to ensure that the arrangements are easy to understand;
  - the need to state the published admission number (PAN) for each relevant age group namely year 7 and year 12;
  - the removal of children with statements naming the school from the oversubscription criteria and inclusion of a suitable statement elsewhere in the arrangements;
  - the inclusion of the correct definition for looked after and previously looked after children;
  - inconsistency between the website and the LA's booklet over the order of two of the oversubscription criteria; and
  - an issue concerning the definition of siblings.
16. The school responded swiftly to these comments by incorporating them into the 2015 arrangements that it had not at that time determined. The school also needs to revise its 2014 arrangements to ensure compliance with the Code.

### **The 2015 arrangements**

17. At the time of the referral the 2015 arrangements were not determined and as stated above I reviewed the 2014 arrangements and made some observations to the school about what I found and asked for comments about these matters and about the absence of arrangements for 2015. The school took note of these comments and on 21 May 2014 a sub-committee of the governing body determined the arrangements for 2015 for both year 7 and year 12 admissions and in doing so addressed some of the comments that I had made about the 2014 arrangements. The 2015 arrangements were determined by a sub-committee and, as a point of governance, the governing body should ensure that it has agreed to delegate the power to determine the arrangements to its sub-committee rather than require the determination to be made at a meeting of the full governing body to which the decisions must later be reported and minuted.
18. The 2015 arrangements were determined after the Code's deadline of 15 April and the timescale followed did not comply with the requirements of the Code. I have also noted that changes have been made to the arrangements that were not subject to the consultation required in the Code and in this respect the process is not compliant with the Code. However,

given that the arrangements were non-compliant with the Code, It could be argued that the school was addressing issues that were covered by paragraph 3.6 of the Code which permits revisions to be made if they “...give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements”.

19. There are some matters in the 2015 arrangements that the school needs to address. They are as follows:

- Pupils with a statement of special educational needs were listed as one of the oversubscription criteria in 2014 but for 2015 are omitted from the arrangements entirely. Paragraph 1.6 of the Code says that “All children whose statement of special educational needs names the school **must** be admitted.” The arrangements need to state clearly that this is the case.
- The PAN in year 7 is 300. These pupils are already within the school so do not need to apply to the sixth form for a place but they do have to meet the school’s grade requirements for progression to their chosen courses in the sixth form. The school states that the PAN for the sixth form is 50. If all the internal pupils meet their grade requirements and the school admits 50 other pupils there is the potential for 350 pupils in each year of the sixth form or a total of 700 pupils across the sixth form. The school states that it has a total of 400 places in the sixth form. The mismatch between these figures is not explained in the sixth form admission arrangements and implies that half of each year group in Year 11 do not continue into the sixth form.
- At the end of the oversubscription criteria for the sixth form there is an underlined statement that says “This criteria (sic) applies to both internal and external applicants”. The school has already admitted the internal applicants to the school so cannot use these oversubscription criteria to decide if year 11 pupils can progress to the sixth form. It must however apply the same grade requirements for courses for internal and external candidates.
- Within the sixth form arrangements the process of application is set out, but it is unclear at what point the oversubscription criteria are applied to reduce the number of external applicants to that of the published admission number (PAN) of 50 if the school is oversubscribed.

## Conclusion

20. At the time that the arrangements were brought to the attention of the adjudicator there were no current sixth form admission arrangements on the school’s website and thus the arrangements were not compliant with the Code. The school has now rectified this matter.

21. I investigated the concern that applicants were required to attend an admission interview in contravention of paragraph 1.9(m) of the Code. Interviews were taking place and this is not permitted by the Code. The

school assured me that the interviews did not form part of the admissions process. However, the letter of invitation to the applicants was phrased in such a way that it was unclear that this was not a selection interview and that if an applicant did not attend it would have no bearing on the application. The school has subsequently decided to avoid any misunderstanding and will not be inviting applicants for an interview at all in future so as to ensure that it is Code compliant. I have concluded that although the school explained how it considered the interviews complied with the Code, the letter sent to applicants left some doubt about this. I note that the school has since taken action to address this by deciding not to offer interviews.

22. Having looked at these two matters brought to my attention, I looked at the arrangements for 2014 which related to admissions to year 7. There were several areas that did not comply with the Code and these are described above in paragraph 15. The school should revise its 2014 arrangements to ensure that they comply with the Code. The school took action to address these issues about the 2014 arrangements when it determined its arrangements for 2015 on 21 May 2014. While the school has not complied with the Code in the timing of its determination it does now have the required admission arrangements for both year 7 and year 12 on its website.
23. The school made changes to the 2015 arrangements before determining them but did not consult as required by the Code about these changes. However, given that the arrangements were non-compliant with the Code, paragraph 3.6 of the Code which permits revisions to be made if they "...give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements".
24. I have identified some further areas for year 7 and year 12 admissions in 2015 that the school must review in order to comply with the Code. These are set out in paragraph 19 in detail and are:
- inclusion of an appropriate reference to pupils with a statement of special educational needs;
  - clarity about the sixth form PAN and when oversubscription are applied; and
  - clarification about progression arrangements for internal pupils into the sixth form.

## **Determination**

25. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for the Bexleyheath Academy determined by the Bexleyheath Academy governing body under the London Academies Enterprise Trust for admissions in September 2014 and September 2015.
26. I determine that there are matters as set out in this determination that do not conform with the requirements relating to admission arrangements.

27. 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 as quickly as possible.

Dated: 7 July 2014

Signed:

Schools Adjudicator: David Lennard Jones