



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA2662

**Objector:** Worcestershire County Council

**Admission Authority:** The Governing Body of Chaddesley Corbett  
Endowed Primary School

**Date of decision:** 27 November 2014

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body for Chaddesley Corbett Endowed Primary School, Worcestershire for admissions in September 2015.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements 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 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by the Mainstream Admissions Officer for School Admissions on behalf of Worcestershire County Council, (the objector), which is the local authority (LA) for the area, about the admission arrangements (the arrangements) for Chaddesley Corbett Endowed Primary School (the school), a voluntary aided (VA) school for pupils aged 4 to 11 for September 2015. The objection is to the elements of priority in the school's oversubscription criteria given to children of members of the armed forces in certain circumstances and to children who have attended the school's nursery.

## **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the school's governing body which is the admission authority for the school on 26 March 2014. The objector submitted the objection to these determined arrangements on 3 June 2014. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I to consider the arrangements for 2014 and for 2015 as a whole.

## **Procedure**

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
  - a. the objector's form of objection dated 3 June 2014;
  - b. the school's responses to the objection and supporting documents, the last of which was received on 9 November 2014;
  - c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - d. a map showing the school's catchment area;
  - e. confirmation of when consultation on the arrangements last took place;
  - f. copies of the minutes of the meeting of the governing body at which the arrangements were determined;
  - g. a copy of the determined arrangements;
  - h. the Armed Forces Covenant and the Ministry of Defence document Admissions to Schools in England and the Armed forces Covenant published in April 2013.
5. I have also taken account of information I received at and subsequent to a meeting I convened at the school on 30 September 2014 which was attended by representatives of the school and the LA.

## **The Objection**

6. The objection is to two separate aspects of the school's oversubscription criteria. These are the elements of priority given to:
  - a. children of members of the armed forces who have been killed on active service or are about to be discharged from the armed forces by reason of the wounds sustained on active service. The LA argues that this is contrary to paragraph 1.9f which provides

that admission authorities: “**must not give priority to children according to the occupational ....status of parents applying (though children of staff at the school may be prioritised in the arrangements.**”; and

- b. children who have attended the school’s nursery which the LA argues does not meet the requirement in paragraph 14 of the Code that arrangements **must** be fair.

## **Other Matters**

7. When I reviewed the arrangements for 2015 in the course of considering the objection I considered that there may be aspects of the arrangements which were not in accordance with the requirements relating to admissions. I have accordingly used my power under section 88I to consider the arrangements for 2015 as a whole and to determine whether or not and, if not, in what respects they do not conform to the requirements relating to admissions.

## **Background**

8. I wish first to make a comment on the time it has taken to complete this determination. The objection was made in June 2014. As the school’s headteacher was unwell and away from school, it took a little time for me to receive any information from the school. I had decided by the middle of August that a meeting was necessary. The Chair of the Admissions Committee who was handling the matter for the school could offer only 22 or 30 September for a meeting with a strong preference for the latter. The meeting duly took place on 30 September 2014. At the meeting the school agreed to send me some further information, including the admission arrangements for the nursery. It was not until 9 November and following several enquiries made of the school by the Office of the Schools Adjudicator (OSA) that I received this information and was therefore able to complete my consideration of the objection.
9. Chaddesley Corbett is a 4 – 11 VA primary school. Its catchment area includes both the village of Chaddesley Corbett and a large surrounding rural area. The school has a published admission number (PAN) of 30 for Reception (YR). The school has consistently been able to admit all children living within its catchment area who wish to attend the school. Figures provided by the LA show that the numbers of children living in the catchment area and seeking a place at any publicly funded school are significantly lower than the number of places available at the school. The school also attracts applications from outside its catchment area. Over the past few years, the school has been well subscribed and has had to apply its oversubscription criteria. It has been able to offer a place to nearly all those who would like one – as some of those who have applied for a place have gained places at schools they ranked higher on their common application form (CAF). The school was last inspected by Ofsted in 2011 when it was assessed as good.

10. There is a nursery on the site. This was previously run by a separate charity but since January 2014 has been run by governing body of the school although it is not part of the school. So far as the nursery's capacity is concerned, this is not fixed and the nursery has historically been able to accommodate all those children who wanted a place and for the number of hours they wanted those places. Children can join the nursery from age three. The nursery provides the state funded Early Years Entitlement provision and parents can also buy additional hours. The school has helpfully provided me with information about the number of children attending the nursery and the hours they attend for. At the end of the 2013/14 academic year, there were 31 children registered at the nursery. The pattern of attendance varied from three children attending for 30 hours each week down to two attending for six hours a week. In the current academic year, there are 23 children in the nursery and the school expects three more to join. Again, there is a wide range of attendance from 30 hours to four hours each week. The school has also told me that its arrangements have included an element of priority for children who attended the nursery since 2010, and in doing so has emphasised that the nursery was a different and separate enterprise before January 2014.
11. The school's admission arrangements for YR are easy to find on school's website reached from the home page via parents and then policies tabs. When I reviewed the website on 18 June 2014, the website showed the arrangements for 2015 but not those for 2014. The oversubscription criteria for YR can be summarised as follows:
- a. Relevant children looked-after or previously looked-after by a LA (for the relevant definitions please see the Code).
  - b. A child of a member of the armed forces who either (a) has been killed on active service, or (b) has or is about to be discharged from the armed forces by reason of wounds sustained on active service.
  - c. Children living within the school's catchment area agreed with the LA – a map is available in the school office.
  - d. Pupils who would have a sibling in the School at the time of application and admission.
  - e. Pupils who have other significant reasons for admission such as medical, social or compassionate grounds.
  - f. Pupils who attend the on-site Nursery School and were admitted to the Nursery in circumstances that did not breach the Statutory Admissions Code.
  - g. Pupils who live nearest to the school by the shortest straight line distance.

12. The arrangements provide that where the school reaches and exceeds its PAN in any of the oversubscription categories, priority will be given according to the subsequent category. The arrangements also provide for a ballot supervised by someone independent of the school to be used as a tie-breaker should it not be possible to separate two or more applicants who tie for the final place available. The arrangements contain a prominent statement that children with statements of special educational needs (SEN) that names the school will be admitted.
13. When I reviewed the website in June 2014, I found information about the nursery. This included a statement that *"We are currently registering pupils to start with us in September 2014, please don't miss out as spaces will be allocated on a 'first come first served basis"*. I could not find any other information about the arrangements for admission to the nursery. The school has since the meeting provided me with a copy of its Nursery Admissions Policy. This includes the following provisions:

*"When and how we allocated places in Nursery*

3. *Parents fill in an application form stating which sessions each week they are seeking a place for. A 'session' is a morning or an afternoon. There is no minimum number of sessions that must be applied for.*
4. *Immediately after 1 May each year we review the number of applicants for places in the September term. If we can physically take in all children for all the sessions asked for we will do so, and arrange to recruit the appropriate number of staff for the coming school year.*
5. *Immediately after 31 October and 21 February each year we consider the applications for the forthcoming term. If we can take in all applicants for all sessions asked for without increasing our staffing structure we will do so.*

*What happens if we cannot take in all children for all the sessions applied for.*

6. *If any session is oversubscribed, we will first look to see if we are able to admit additional children to that session by taking on additional staff.*
7. *If a session remains oversubscribed, we will then apply the 'oversubscription criteria' set out in the Primary School's Admissions policy.*
8. *If any session has spare places, we will offer places to parents at these sessions. In the event that there are more parents seeking such places, we will again apply the Primary School's oversubscription criteria.*
9. *Please note we do not give any priority to a child just because they want more sessions than another. If you only want the sessions covered by the government voucher your application will not be treated*

*less favourably than a child's whose parents are willing to pay for extra sessions.*

### *Waiting lists*

10. *We will operate a waiting list for each session. If places become available in a session we will fill them from the waiting list. If there are more children on the waiting list than there are places, then we will apply the oversubscription criteria. Places on the waiting list are not offered on a 'first come, first served' basis.*
11. *In deciding whether there are places available at a session, we will bear in mind whether places have already been offered to another child for the forthcoming term in accordance with this policy.*

### *Appeals*

12. *If you think we have not treated your application in accordance with this policy, you have the right to appeal to the School's Appeal Panel."*

## **Consideration of Factors and Other Matters**

### Consultation on, determination and publication of arrangements

13. For admissions in 2015, the school planned to change its admission arrangements. Regulation 17 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) require that where admission authorities wish to make changes to their arrangements they must consult for at least eight weeks between 1 November and 31 March before determining the arrangements. The school did consult on the changes it wished to make but did not begin its consultation until 7 January 2014 so its consultation was just short of the minimum period specified in the regulations. The governing body then determined the arrangements on 26 March 2014. The fact that the consultation did not meet the requirements of the regulations does not affect the status of the arrangements or my jurisdiction to consider the objection. The change proposed was to alter the nursery oversubscription criterion from "*Pupils who attend the on-site Nursery School*" to "*Pupils who attend the on-site Nursery School and were admitted to the Nursery in circumstances that did not breach the Statutory Admissions Code.*"
14. Paragraph 1.47 of the Code requires admission authorities to publish their arrangements on their websites "*displaying them for the whole offer year (the academic year in which offers for places were made)*". In addition, paragraph 2.14 requires admission authorities to maintain a waiting list for at least the first term of the academic 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*". These two requirements taken together mean that one would expect the arrangements for 2014 still to be available on the school's website until the end of the term which begins in September 2014. However,

when I first reviewed the website on 18 June 2014 I could find only 2015 arrangements and not those for 2014.

15. The school undertook at the meeting to ensure that the arrangements for 2014 were published on the website. However, at the time of completing this determination, I could not find the arrangements for 2014 on the school's website. The school was thus in breach of the requirements of the Code.

#### Oversubscription Criteria

16. Looked After and Previously Looked After Children: The school correctly gives the highest priority in its oversubscription criteria to looked after and previously looked after children as required by paragraph 1.7 of the Code. However, the school does not in its arrangements offer a definition of "*relevant children looked after or previously looked after*" but instead refers readers to the Code. I do not think it reasonable for a parent to be expected to refer to the Code in order to understand what is meant by a phrase in a school's admission arrangements. Admission arrangements are required by virtue of paragraphs 1.4 and 1.8 of the Code to be clear. Paragraph 1.4 also states that "*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*". The school's arrangements do not currently meet that test and do not conform with the Code. The school must revise its arrangements as soon as possible.
17. In the email of 9 November 2014, the school said that it proposed to define looked after children as follows: "*Children who are in the care of local authorities as defined by s22 of the Children Act 1989.*" In fact a looked after child is not the same as a child who is the care of a local authority. As footnote 17 to the Code states: "*A looked after child is a child who is (a) in the care of a local authority or (b) being provided with accommodation by a local authority in the exercise of their social services functions.*"
18. Map of the catchment area: The school has a catchment area and an element of priority is given to children who live in the catchment area. When I reviewed the arrangements, I noted that there was no map or description of the catchment area in the arrangements or on the school's website. Instead, the arrangements said that a copy of the catchment area map was available from the school office. While this would be helpful for some, it would not be of much use to those who are, for example, considering moving to the area. As noted above, paragraph 1.4 of the Code states that "*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" Paragraphs 1.4 and 1.8 require that arrangements must be clear. I considered that without any description of the catchment area or a map on the website, the arrangements could not be considered to be compliant with these provisions of the Code. At the meeting, the school agreed to publish a map of the catchment area on its website and I note that this has now been done.

19. Priority given to those who attend the school's nursery: As noted above, when I reviewed the school's website in June 2014, I could not find any oversubscription criteria for the nursery, although the nursery page explained that places were allocated on a first come, first served basis. The school has explained that the nursery has only been under the auspices of the governing body since January 2014, that it had not been oversubscribed for 2014 and that if it were to be oversubscribed the school's oversubscription criteria would be used (with the exception of priority for those attending the nursery which would not be relevant). The school agreed to provide me with a copy of the nursery admissions policy and, as noted above, has now done so. I reviewed the school's website on 19 November 2014 having received the nursery admissions policy and note that the policy is now published on the website. In addition, the references on the website to places being allocated on a first come first served basis have been removed. Allocation on a first come, first served basis and allocation on the basis of the oversubscription criteria used for YR are mutually exclusive.
20. It was clear to me from my visit to the school that its nursery enjoys flexible and spacious accommodation. The school explained that it was fortunate in being able to recruit staff for the nursery as needed. Together, these factors allow the school to respond to demand and give it scope to meet the needs of those who would like a place there, accommodating a wide range of patterns and hours of attendance. The school said it was happy if parents wished to have some of their government funded provision at the school and some at other providers. The nursery offers both the government funded free to parents provision and additional provision which parents pay for. The school explained, and the arrangements confirm, that it does not give higher priority to those who want additional provision on top of the government funded provision which is free to parents. I am sure that the flexibility offered by the school is welcomed by and helpful to local parents. It also means, however, that the numbers in the nursery could exceed the number of places available in YR. As noted above, there were 31 children in the nursery at the end of the academic year 2013/14 while the school's PAN is 30.
21. At the meeting, the school explained the history of the nursery and its importance to the village. The school said that its trust had supported the nursery for many years as the nursery had struggled as a separate charity and that was partly why the school's governing body had taken over its running at the beginning of 2014. The school's arrangements for YR had included an element of priority for children who had attended the nursery since 2010. The school has said that in drawing up its arrangements for YR sought to ensure that in giving priority to those who attended the nursery it did not breach the Code. The school said that they believed that every child who had joined the school from the nursery would, in any case, have secured a place there without the use of the nursery criterion. The inclusion of priority for those who had attended the nursery was a matter of "*community intent*".



22. The Code does not refer to the use of priority for admission to YR for children who have attended a school's nursery and so does not say whether such priority is or is not allowed. I have therefore considered the priority offered by this school against the core requirements in paragraphs 14 and 1.8 of the Code that arrangements must be fair, clear and objective.
23. The requirements relating to admissions to schools do not apply to nurseries. This means that the school can set arrangements for the nursery that would not be permitted for a school and it can also change those arrangements without following the procedures laid down in the Regulations and Code for changes to school admission arrangements. Where priority for admission to YR is given on the basis of attendance at a nursery, however, it is appropriate to consider whether the nursery arrangements would satisfy the Code. This is because if they do not, children may – through their attendance at the nursery – gain places at a school on the basis of arrangements that would not be lawful for a school. This would undermine the Code and be unfair to other children. The arrangements for the nursery when I first saw them were based on first come first served which could not be used in arrangements for admission to a school as all such applications be made on the CAF and that co-ordinated scheme for an area must provide that CAFs are submitted by 15 January in the offer year in the case of applications for primary school. The new arrangements do not set a closing date for applications. However, they make clear that all applications made by 1 May each year for the September of the same year will be considered together. This is after the date specified for applications to primary schools and does not require parents to have to make unreasonably or unfeasibly early decisions about the nursery provision they would like for their children.
24. The school has said in correspondence and at the meeting that its aim has been to give some element of priority to children who attend its nursery without breaching the Code. The arrangements sent to me in November for admission to the nursery use the same arrangements as are used for YR, provide for an appeal if a place is refused and do not give any priority to those who want more provision than do others. In addition, the element of priority for those who have attended the nursery comes after siblings, catchment area children and those with a particular need to attend the school.
25. The oversubscription criterion relating to the nursery is clearly set out and it is objective. In considering whether it is fair, I have taken account of all the points made by the school. It is, of course, the case that there is no requirement for parents to send their children to nursery. Some will prefer to keep them at home with them or to use other forms of care such as family members or employees. Notwithstanding the significant flexibility in the patterns of provision available at the school's nursery, it will not meet the needs of all parents. While the nursery criterion is low in the list of oversubscription categories, it is also the case that the nursery can accommodate more children than can YR. This would

mean that if the school were oversubscribed it is possible that a child living out of catchment but relatively near to the school would have little chance of gaining a place compared to children living further away who attended the nursery. Parents should not feel that they have to send their child to a nursery in order to secure a place at the primary school they would prefer. For these reasons, I consider that by giving priority to children who have attended the school's nursery, the arrangements are not fair and I uphold this aspect of the objection.

26. Priority given to children of members of the armed forces: The LA has objected on the grounds that this breaches 1.9f of the Code which bans priority on the basis of – among other things – parental occupation. The school explained that this priority had been introduced a number of years ago but no child has as yet applied or been admitted under this criterion.
27. Paragraph 2.18 of the Code is concerned with children of UK service personnel. It makes specific provision to deal with the circumstances of service personnel returning from overseas so that families are treated for the purposes of school admissions as if they were living at an address once their relocation there has been confirmed even if this is before they actually move there. Admission authorities are required by the same paragraph to *“ensure that arrangements in their areas support the Government’s commitment to removing disadvantage for service children”*.
28. The Code does not provide for priority in admission arrangements to be given to children of members of the armed forces. Paragraph 1.9f of the Code prohibits the giving of priority *“according to the occupational ....status of parents applying.”* The only exception to this provided for in the Code is for children of school staff in certain circumstances. In addition, the document Admissions to schools in England and the armed forces covenant says *“In the light of the Covenant, there are some specific references to Service children and their parents in the Code but none of these provide any preferential treatment for them.”*
29. In its response to the objection the school said:
- “1. As to [giving priority to a child whose parent had been killed on active service] in order for a child to benefit from the priority, the parent must be dead in which case, a fortiori, the parent has no “occupational status”. The Code clearly references occupational status in the present tense. Any suggestion that there is, in such circumstances, a breach of the Code is wholly misconceived as a matter of linguistic construction.*
- 2. As to (b), priority is given to a child of a parent “by reason of wounds”. That is plainly not a reference to “occupational status”. While the criterion goes on to require these wounds should have been sustained “on active service”, this again is not a reference to “occupational status”. Finally it might be argued that because the wounds should*

*result in discharge from the armed forces this is an impermissible reference to occupational status. However that is not the case:*

- a. *It is plainly a reference, if at all, to a former or about to be former status; or*
  - b. *The Code should not be construed in a way that is incompatible with other government policy including the Armed Forces Covenant ("AFC") which provides, inter alia, that the whole nation has a "moral obligation" especially to "those who have given the most such as the injured and bereaved". The child of such a person is vulnerable in similar ways to that of a looked after child; or*
  - c. *Any such link with occupational status is too remote to amount to a breach of the Code.*
3. *The LA's letter to the school dated 22/1/14... makes reference to the decision at Bishop Henderson CE Primary School. For the reasons set out above that decision is distinguishable from the instant case: (a) no priority is being given on the basis of the fact that a child's parent is serving in the armed forces, and (b) no priority is afforded on the basis that a parent is retiring. In the instant case the parent is either dead or being discharged (not retiring) in tragic circumstances."*
30. At the meeting, the school expanded on its commitment to the Armed Forces Covenant and noted that the LA was also a signatory to the Covenant. While the area served by school no longer included any military establishments, the area did have strong historical links with the Army in particular and several local people had served in Afghanistan. The school was conscious of the foreword to the Armed Services Covenant and its reference to the "*special treatment required for the injured and bereaved*". This was the school's way of seeking to respond to the Covenant's concern for "*those who had given most*".
31. The LA said its concern was to ensure fairness to all children in the area. The LA's view was that the area served by the school did not have strong links to the Armed Forces and the oversubscription criterion did not fulfil any local need. The LA noted that no applications had been made under this criterion and there was also a concern that the criterion as drafted was not limited only to UK service personnel. The LA also considered that it was unfair to single out children of Armed Forces personnel compared to those of members of public services such as the police and fire services who also risked their lives for others.
32. I have considered first the question of whether the school's arrangements breach the prohibition in paragraph 1.9f of the Code on the basis of occupational status. The school has set out its arguments on this point above. My view is that the priority given in both cases (by which I mean to children whose parents have died and those who have been discharged) is directly attributable to an occupational status. In other words, had the parent not been a member of a particular occupational group (the armed forces) the priority would not have

arisen. The priority is thus on the “*basis of the parent’s occupational status*”, notwithstanding that the occupational status is no longer the current occupational status. The school argues that a reference to a former occupation should not be considered to be the same a reference to the current occupation or occupational status. If the school’s argument were right, 1.9f of the Code would mean that it was not permissible to take account of current occupations but it was permissible to take account of past occupations. I cannot agree that this is what the Code means.

33. However, even if the Code does not specifically prohibit priority on the basis of a previous occupation, this alone does not amount to permission to have such a priority. Instead, any such priority would fail to be tested against the requirements that arrangements be fair, clear and objective. Clarity is not an issue here; the school has set out clearly the circumstances covered. There are documents that confirm death or discharge and the reasons for these. Similarly, the criterion is objective. So far as the LA’s concern that children of other countries’ armed force might qualify under this provision is concerned, I consider that the provision would be limited to those entitled to be educated in a publicly funded school in England.

34. I turn now to the question of fairness. At the meeting, the school spoke about research which showed that the loss of a parent through war could leave children as vulnerable as looked after children. The school also drew attention to the consultation underway on changes to the Code which would allow priority for children entitled to the Service Premium and/or the Pupil Premium. While it is the case that the Code now before Parliament makes different provisions, I must consider the arrangements against the Code currently in force which is the Code which will govern arrangements to school is 2015.

35. Even if the school were right that paragraph 1.9f is only about current occupation, I consider that if it is not allowed to give priority on the basis of a current occupation it cannot be fair to give priority on the basis of a past occupation. A fundamental purpose of the requirements relating to admissions is to ensure fairness to children. Fairness can include taking account of the needs of the most vulnerable. There is no doubt that children who have lost a parent or have a parent who has been seriously injured can be vulnerable. However, this vulnerability may well exist however the parent was been killed or injured. I have in mind here, for example, children of members of the emergency services as well as children whose parent may have died or suffered a life altering injury in a car accident. It seems to me that it is the impact on the child that should be of paramount interest in the case of school admissions and not the circumstances of the parent.

36. I consider that it is not fair to single out for priority children who have lost a parent or whose parent has been injured in one set of

circumstances rather than another. There is no question here about the debt the nation owes its armed forces. Where the Code makes special arrangements for service children (as it does in paragraphs 1.41 and 2.18) it does so to try and ensure that there is no disadvantage to such children.

37. Where there is a particular need for a child to be given priority to attend a particular school then this is provided for in the scope for priority on the basis of social and medical need as in paragraph 1.16 of the Code. I raised this provision with the school at the meeting. The school said that this provision – which is included in its arrangements, albeit further down its categories of oversubscription – could only apply where there was a specific need for a child to attend a particular school. It wanted to give priority to this group of children whether or not they had a need to attend their school. I find this argument somewhat at odds with the school's argument that it seeks to give priority on the basis of children's vulnerability.
38. This social and medical criterion provide for in the Code focuses on the child's needs, so the test is the same for all children who have lost a parent or have sustained some other family tragedy. What the school seeks to do is give priority to the child solely on the basis of the parent's personal circumstances: priority is not being given to all children who have lost a parent, for example, but only to those children whose parent died or suffered injury while in a particular occupation. I do not think that this is fair as required by the Code.
39. For the reasons I have given I consider that the school's arrangements breach paragraphs 1.9f and 14 and 1.8 of the Code and I uphold this aspect of the objection.
18. Tie-breaker and siblings: The arrangements include the use of a ballot (which the school explained at the meeting is supervised by the local Anglican Priest) in order to separate two final applicants who tie for the last available place. However, the arrangements also state that where *"the school is unable to offer places in the same class to all siblings seeking entry to those class (for example in the case of twins or triplets), parents will be asked to choose which of their children should be offered the place available. The school will consider offering the other sibling(s) from a multiple birth a place as an "excepted pupil" in accordance with the provisions of the Code"*. When I reviewed the arrangements, I was concerned at how this provision would work in practice. In the first place, when the school ranks the applications it has received for places, it does not know how many or which of those applications have put the school as a first or second or third preference and it cannot know which if any applicants will be offered a place at a school they ranked higher on the CAF. This means that the school

cannot know whether two or more same cohort siblings actually tie for the final available place. Second, offers are not made by the school but

by the LA. It is for the LA alone to issue offers.

19. Arrangements which ask a parent to decide which of his or her children should be offered the final place available do not satisfy the requirements of fairness, objectivity and clarity set out in paragraphs 14 and 1.8 of the Code. Moreover, they would not work in practice. At the meeting, the school accepted that this aspect of its arrangements needed to be amended. I determine that the arrangements do not in this regard conform with the Code.

## **Conclusion**

20. I have determined that the definition of looked after children and the tie-breaker used by the school do not conform with the requirements relating to admissions. I have upheld the objection to the aspects of the arrangements which give priority to children who have attended the school's nursery and to certain children with parents who have served in the armed forces. The school must revise its arrangements as quickly as possible and by no later than 15 April 2015. I note that the Code currently before Parliament makes different provisions in respect of these children from the Code currently in force. In the same way as I must consider the arrangements against the Code now in force, when the school revises its arrangements it will have to do so in accordance with the Code in force at that time.

## **Determination**

21. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body for Chaddesley Corbett Endowed Primary School, Worcestershire for admissions in September 2015.
22. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.
23. 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: 27 November 2014

Signed:



Schools Adjudicator: Ms Shan Scott