



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3474

Objector: London Borough of Hillingdon

Admission Authority: Uxbridge High School Academy Trust for Uxbridge High School, Uxbridge, Middlesex

Date of decision: 28 November 2018

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by Uxbridge High School Academy Trust for Uxbridge High School situated in the local authority area of the London Borough of Hillingdon.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 of the date of the determination.

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 London Borough of Hillingdon about the admission arrangements for September 2019 (the arrangements) for Uxbridge High School, an academy secondary school for children aged between 11 and 18 years. The objection is to the reduction in the published admission number (PAN) for Year 7 (Y7) from 230 in previous years to 210 for admissions in 2019.
2. The parties to this objection are:
 - a. Uxbridge High School Academy Trust (the trust) which is also the governing board and the admission authority for Uxbridge

High School (the school); and

- b. The London Borough of Hillingdon which is the objector and the local authority for the area in which the school is situated (the local authority).

Jurisdiction

3. The terms of the academy agreement between the 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 trust on that basis.
4. The local authority submitted its objection to these determined arrangements on 15 May 2018. 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 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:
 - a. the local authority's form of objection; supporting documents; and responses to my request for further information and to comments made by the school;
 - b. the trust's response to the objection; supporting documents; further information at my request; and responses to the communications from the local authority;
 - c. maps of the area identifying relevant schools and the home locations of those allocated places for admission in 2018;
 - d. information on the websites of the Department for Education (DfE), the school and the local authority;
 - e. the funding agreement for the school dated May 2011;
 - f. copies of the minutes of the meetings at which the trust discussed and determined the arrangements; and
 - g. a copy of the determined arrangements.

The Objection

7. The local authority has objected that the PAN for admissions to Y7 has been reduced from 230 in previous years to 210 for 2019. The reasons given for the objection are that the reduction is not in the

interests of residents as the reduction would leave the local authority at serious risk of not being able to fulfil its statutory duty to make sure that there are sufficient school places within a reasonable distance and would make it more difficult to satisfy parents' preferences for school places.

Other Matters

8. When I considered the arrangements I found other matters which it appeared to me might not meet the requirements of the Code. These matters are listed below (with the most relevant paragraphs of the Code in brackets).
 - a. There is no reference to the requirement to admit children with an education, health and care plan which names the school (1.7 and 14).
 - b. It is not clear how the home address is determined where parents have shared responsibility for the child following the breakdown in their relationship and the child lives for part of the week with each parent (1.13 and 14).
 - c. The sibling definition is unclear (1.11 and 14). It is not clear if those included must live in the same household, whether half brothers and sisters are included and whether full brothers and sisters who live in different households are included.
 - d. There is no information on the admission of children outside of their normal age group (2.17 and 14).
 - e. The arrangements do not state that each added child to the waiting list will require the list to be ranked again in line with the published oversubscription criteria and other information relevant to the maintenance of a waiting list is missing (2.14 and 14).
9. The trust has told me that it will address these matters, which is welcome. I will therefore not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Background

10. The London Borough of Hillingdon is on the western edge of Greater London and borders the local authority areas of Hertfordshire, Buckinghamshire, Hounslow, Ealing and Harrow. There are 22 state-funded secondary schools in the local authority area of which four are university technical colleges so admit students to Year 10 (Y10) rather than to Y7 as the school does. The local authority plans secondary school places in two geographical areas, north and south. The A40 road provides a divide between the two areas. The school is to the south of the local authority area

where there are ten state-funded secondary schools which admit children to Y7. The school is near to the border with the local authority area of Buckinghamshire, which is largely rural at this point.

11. The trust discussed the arrangements for admissions in 2019 at its meeting on 13 December 2017 and agreed to consult on changing the arrangements. Two changes were proposed. One was to remove the priorities in the oversubscription criteria for 10 specialist places for aptitude in sport and 10 specialist places for aptitude in music. The second proposal was to reduce the PAN by 20 places from 230 in 2018 and previous years to 210 for 2019. The trust delegated the decision to determine the arrangements to a sub-group. The sub-group met on 20 February 2018 following the consultation and considered the sole response to the consultation which was from the local authority raising concerns. The trust then, through the sub-group, determined the arrangements for 2019 as proposed with a PAN of 210.
12. The oversubscription criteria for the school for admissions in 2019 are in summary:
 - 1) Looked after and previously looked after children
 - 2) Siblings of children already attending the school
 - 3) Children living nearest to the school.

Consideration of Case

13. The local authority's objection is that there will be a need for the places which have been removed by the reduction of the PAN from 230 to 210. The reduction by 20 places a year, if the PAN were to remain at 210 for five years, would remove 100 places over those five years. The local authority argues that its forecasts show that these places are required to meet the demand for school places and, if they are not available, the local authority will be at risk of not fulfilling its statutory duty to secure sufficient provision for the children in its area. The local authority also says that removing the places will reduce choice for families.
14. The school says that it does not have confidence in the local authority's forecasts and that it wishes to reduce the PAN to reduce the movement of students out of the school during the school year as this will allow it to function more efficiently.
15. I will therefore examine the nature of the statutory duty of the local authority and the relevant legal framework; the data and forecasts provided to me; and the implications of reducing the PAN in the context of demand; and the case made by the school for reducing the PAN.
16. The statutory duty to secure the provision of school places for an area rests with the local authority for that area and is set out in

section 14 of the Education Act 1996. A local authority meets its duty to secure sufficient school places by working with schools, academy trusts, other local authorities and the DfE. It is therefore necessary for the local authority to forecast the need for school places and to review the situation regularly. Forecasts are just that; they are unlikely to be entirely accurate as there are many variables including families moving into or out of the area and changes in the relative popularity of schools.

17. The local authority's objection to the reduction in the PAN from 230 to 210 is that the school places removed will be required to meet the demand for future admissions. Admission arrangements, including the PAN, must be determined each year and anyone can make an objection if they believe that the arrangements do not comply with the requirements of the Code. However, no objection can be made when an admission authority of an academy determines to keep the same PAN. This is set out in paragraph 3.3 b) of the Code. This means that the local authority can object (as it has done) to the decision to reduce the PAN for 2019. However, if I do not uphold the objection and the PAN remains at 210 for 2019 and it is set again at that level for 2020 then neither the local authority or any other person or body would be able to make an objection. If the decision to reduce the PAN means that there are insufficient school places available in the area then this has serious implications for the local authority and its duty to secure sufficient school places for the children in its area. In these circumstances I need to consider the need for school places over time, not just for 2019.
18. The school has said that if there were an increase in demand in the future then it would be "*sympathetic to this need and consider raising the PAN of the school, including significantly if required, with appropriate support for buildings and infrastructure.*" I respect this gesture by the trust but the PAN is the only legally binding guarantee of school places for Y7. A local authority would be at risk of not being able to fulfil its duty to secure sufficient school places if it were to rely on potential increases rather than the certainty of a PAN. I must consider the objection in that context.
19. The trust provided to me documents which it says, and I accept, originated with the local authority. The trust had made annotations to these documents and explained to me what these were. The documents have very limited information on their purpose and how the figures contained within them were arrived at. The local authority has responded to some of my questions for clarification on these documents but not given a full explanation of them. The four documents provided to me by the trust were:
 - a. A sheet dated 27 January 2016 which is a summary of future forecasts for the supply of and demand for secondary school places prepared by the local authority (which I shall refer to as

the 2016 forecast).

- b. A document dated 5 July 2017 prepared by the local authority which shows the number of school places in the local authority area (the supply) and the forecasts of need for places (the demand) presumably used to estimate whether there is an over provision of places or a need for more (the 2017 supply and demand spreadsheet as I shall refer to it). The 2017 supply and demand spreadsheet covers the years from 2015 until 2025 so some of the numbers it contains were actual figures and some were forecast figures for coming years.
 - c. Extracts from the 2017 supply and demand spreadsheet with additions by the trust showing comparisons with the 2016 forecast.
 - d. A paper dated July 2017 showing the number of children and the number of vacancies in each secondary school in the local authority's area by year group.
20. The trust used the information provided to explain why it did not have confidence in the forecasts. The trust expressed the view that the basis for the local authority's objection to the reduction in the school's PAN, which is that it would not allow the local authority to secure the sufficient provision of places in its area, is not borne out by the local authority's statistics.
21. The local authority explained that it is required to follow a prescribed methodology provided by the Education and Skills Funding Agency (ESFA) in preparing the forecast. The methodology should make sure that there is consistency from one local authority to another. The local authority bases its supply and demand spreadsheets on two geographical areas, the north and the south of the local authority area. I will only consider the south area in this determination.
22. I have not seen a forecast for any individual school. The secondary schools are relatively close together in this area and so generally children could choose to travel to a range of schools. It therefore makes sense to plan on an area rather than a school basis. I note, however, that the geographical context of the school is the A40 road to its north and a rural part of Buckinghamshire to its east. The map showing the home locations of those allocated places for Y7 in 2018 supports my understanding that most of the children seeking a place at the school live in the local authority area and are from the immediate town of Uxbridge and the area to its south. It appears likely, given the geographical context, that few of the children living in the vicinity of the school would seek a place outside the local authority area.
23. The PANs of some schools in the local authority area have changed

in recent years. Some schools have increased their PAN at the request of the local authority in order to meet anticipated increases in demand. Other schools have reduced their PANs. The 2016 forecast and the 2017 supply and demand spreadsheet show different figures for the supply of places. The relevant figures which demonstrate the differences are shown in table 1.

Table 1: supply as shown by sum of PANs in the forecasts made in 2016 and 2017

	2016 forecast	2017 supply and demand spreadsheet
2016	2049	1914
2017	2049	1961
2018	2049	2021
2019	2049	2021
2020	2049	2021

24. I asked why the information appeared to show a reduction in the sum of the PANs for 2016 from 2049 in the 2016 forecast to 1914 in the 2017 forecast (by which time the figure for 2016 would no longer be a forecast but a historical figure). The local authority explained that the PAN of one school had been reduced by 104 places and that this had been reflected in their projections since 2016. It said that this change was responsible for a reduction in the sum of the PANs from 2018 to 1914 in 2016. I have not seen a forecast dated 2016 showing a sum of the PANs at 2018 or 1914 so I must assume that the local authority is describing a different forecast from the one provided to me by the trust. It is certainly possible that the local authority created a further forecast in 2016 after the one dated January 2016 but I have not seen such a forecast despite my queries on these matters. I also note that the local authority has made no comment on the 2016 forecast provided to me and circulated to all parties which showed a sum of PANs of 2049. It appears possible that the trust and the local authority have been considering two different forecasts originating in 2016, both produced by the local authority. I have received no clarification on this from the local authority.

25. As the trust's decision to reduce its PAN was partly based on its lack of confidence in the local authority's forecasts I have looked at the 2016 forecast, which had the supply as 2049, and the 2017 supply and demand spreadsheet where it is given as 1961 for 2017 and 2021 for subsequent years for the relevant area. Relevant extracts are shown in table 2 below to show differences in the forecasts made in those years. In all of these the school's PAN was 230.

Table 2: changes in the forecasts for secondary school places in the south area of Hillingdon dated 27 January 2016 and 5 July 2017 showing number of surplus or deficit places compared with the 2017 forecast

	2017/18	2018/19	2019/20	2020/21
Supply (sum of PANs) in 2016 forecast	2049	2049	2049	2049
2016 forecast for Y7 Surplus (+) or deficit (-)	+191	+118	-70	+130
Supply (sum of PANs) in 2017 forecast	1961	2021	2021	2021
2017 forecast Y7 surplus or deficit (PAN 230)	+128	+133	+4	+11
Change in predicted level of deficit/surplus from forecast in 2016 to forecast in 2017	projected surplus reduced by 63	projected surplus rose by 15	projected deficit of 70 became projected surplus of 4	projected surplus reduced by 119

26. The information in Table 2 has been taken from the 2016 forecast and the 2017 supply and demand spreadsheet provided to me by the trust but originating from the local authority. The trust criticised the differences illustrated in Table 2. These included the 2016 forecast showing that there would be a deficit of 70 places in 2019 while the 2017 forecast showed a surplus of four places in 2019; this is a difference of 74 places. The trust argued that the local authority's case is dependent on statistics in which the trust does not have confidence.

27. I asked the local authority to respond to the concerns raised by the school. The local authority said, *"It would be fair to say that demand forecasting in the secondary sector is subject to more volatility than the primary sector, in part due to parental preference, mobility, rising accommodation costs in London which seems to have the effect of encouraging outward migration and welfare reform."* The local authority also explained that there can be minor changes in demand from one year to the next. There can also be changes between the numbers of places allocated on national offer day and the numbers admitted in September, caused by late applications and parents opting for an independent school after they have accepted a place at a state funded school. Such fluctuations are rather different from changes in demand consequent on population change which are relevant to longer term forecasting.

28. The trust also said that the local authority in July 2017 had forecast a surplus of 133 places across the south area for Y7 in 2019. The school argued that given such a high number of surplus places that it was prudent for the school to reduce its PAN to “*reflect the oversupply in this year.*” I have been able to ascertain that this was a misunderstanding of the data and there was no such forecast of surplus places for 2019; the surplus of 133 was forecast for 2018. I note, as discussed below, that there were 130 surplus places for Y7 in 2018 based on the allocations made up to August 2018.
29. Having reviewed the evidence provided to me, and I can only comment on what I have seen, I consider that the data for the information and forecasts provided by the local authority have not always been clearly presented. The 2016 forecast has a forecast based on the sum of the PANs being 2049 which the local authority has not explained to me despite my requests for clarification. It is understandable that the trust was perplexed by the differences between the figures presented in 2016 and 2017.
30. The 2017 forecast, however, looked at in isolation from the 2016 forecast, looks broadly accurate as shown in Table 3. Of course, the information on the numbers of children admitted to Y7 in 2018 would not have been known when the trust was making its decision to reduce its PAN.

Table 3: 2017 forecast of surplus number of places for admissions to Y7 in 2017 and 2018 compared to the outcome

	Admissions to Y7 2017	Admissions to Y7 2018
2017 forecast surplus	+128	+133
Actual surplus	+150	+130

31. The local authority wished me to note that it predicts the demand for secondary school places rising sharply from 2022. As discussed above, if the school’s PAN were set at 210 for 2019 then there can be no objection for it remaining at that for 2022 or any other year. I am concerned with 2019 and beyond so I asked for more up-to-date forecasts. The local authority explained that the figures it provided were a work in progress but they expected to make only minor changes before providing the data to the DfE. Table 4 shows the local authority’s forecast demand for places dated 12 June 2018 together with a projected surplus or deficit based on a supply of 2001. Table 4 shows a deficit number of places for every year from 2019.

Table 4: predicted surplus or deficit based on the forecast provided by the local authority on 12 June 2018 assuming no changes to the PAN of any school with school's PAN at 210

	2019	2020	2021	2022	2023
Demand for Y7	2045	2018	2042	2130	2180
Supply (sum of PANs)	2001	2001	2001	2001	2001
Predicted level of deficit (-) or surplus (+)	- 44	- 17	- 41	- 129	- 179

32. In August 2018 the local authority told me that there were 1891 children allocated places for Y7 for September 2018 in the south planning area. As indicated above, one school had increased its PAN by 60 places (to 240). This school reached its new PAN. Six further schools, including Uxbridge High School which admitted 226 children, allocated places to numbers of children equivalent to or close to their PANs. The 130 surplus places were spread across the three remaining schools. I note, therefore, that even with this number of surplus places within a relatively small area, the school admitted close to its PAN of 230 in September 2018 when it admitted 226 children. Table 5 below shows it has admitted a similar number of children to Y7 each year since 2013. This demonstrates that reducing the number of places available would curtail opportunities for children whose parents wish them to be admitted to the school to have that preference met.
33. As noted and considered above, the trust has little confidence in the forecasts provided by the local authority. I can understand why the trust had concerns but I find the 2017 forecasts for 2017 and 2018 to be accurate. However, whether or not the forecasts are accurate, the fact is that there is evidence that the school is popular enough that 230 places or very close to that number would be taken up in September 2019, as they have been in earlier years, if they were available.
34. The reasons given by the trust for reducing the PAN were that it would be prudent to do so as there was a surplus number of places forecast for 2019; and that a lower PAN will reduce the number of children leaving the school before the end of compulsory education. I have already explained above that the forecast surplus of 133 places cited by the trust as being for 2019 actually related to 2018. I have also noted that that 2017 forecast for 2018 was accurate as there were 130 surplus places, but the school was still very nearly fully subscribed.
35. The second point was, as the school explained to me, that it reached its PAN in recent years at the point of entry but that the numbers on roll reduce and that this, *“affects the efficient running and financial planning for the school, including staffing and*

curriculum planning.” The school provided me with its figures on roll as of 5 July 2018 and these are shown in Table 5.

Table 5: numbers of children admitted to the school at the normal point of admission in Y7 and on roll at the school by year group as of 5 July 2018

	Number of students at normal point of admission (year of admission)	Number of students on roll as of 5 July 2018
Year 7	227 (2017 Y7)	227
Year 8	226 (2016 Y7)	223
Year 9	230 (2015 Y7)	201
Year 10	226 (2014 Y7)	200
Year 11	228 (2013 Y7)	191
Total	1137	1042

36. Table 5 shows that the numbers in the Y7 and Y8 groups remained fairly stable. It appears, as the school has said, that each of Years 9, 10 and 11 contains between 30 and 40 fewer children than the PAN for when they entered the school. Thus there are around 95 fewer students across those three year groups than would be the case if each were full. This is the equivalent of around a class for each year group and such a reduction will make planning more challenging. However, while this must be inconvenient and difficult for the school, it is insufficient justification to reduce the PAN. The children seeking admission to a secondary school in Y7 cannot be denied a place on the basis that some of them may leave later. This would be unreasonable.

37. I am also far from clear as to why the school thinks that the 20 children who would not be admitted if the PAN were reduced would necessarily be some of those who might leave later on. The school has not provided me with any indication as to why it thinks this might be the case. Therefore, even if the PAN were reduced a similar number of children might still choose to leave in later years so the problem highlighted by the school might not be addressed by reducing the PAN.

38. I have noted that the funding agreement made with the Secretary of State details the capacity as 1298 places including 250 places for post 16 students. A capacity of 1298 minus 250, to allow for post 16, is 1048 which, if divided by the five year groups, would give around 210 places a year. However, the school clearly has capacity to accommodate a PAN of 230 as it has done so in the past. The school currently has a PAN of 230, which it has applied for at least five years and the trust has given me no reason to think that it does not have the capacity to continue to do so.

39. The trust is clear that it does not accept the local authority's pupil forecasts. I have said that the information could have been more clearly expressed. The school has filled to PAN or near to PAN since at least 2013 despite there being places available at other local schools. I do note that there is no guarantee of preferences for a school being met but to reduce the opportunity for preferences being met needs sound justification. I must also give weight to any concern that the local authority might not be able to meet its duty to secure the provision of places. The school has not provided me with sufficient justification in this case.

Summary of Findings

40. In coming to my conclusion I have considered:

- a. the capacity of the school to accommodate children up to the previous PAN;
- b. the evidence of parental preference for the school in the context of the PAN;
- c. the need for secondary school places in the area for 2019 and beyond; and
- d. the rationale given by the trust for reducing the PAN.

41. The evidence has shown me that:

- a. the school can accommodate the PAN of 230 as it has done so previously and there is no evidence that it cannot continue to do so;
- b. a PAN of 230 has been consistent with parental preference in the past and there is no evidence that it will not continue to be so in the future;
- c. it is likely that the PAN of 230 is needed to help meet the forecast demand for secondary school places in the local authority area in the future; and
- d. the trust's given reasons for reducing the PAN are not convincing. The key reasons were that:
 - i. reducing the PAN would decrease movement out of the school during the school year and so a lower PAN will allow it to function more efficiently; and
 - ii. it does not have faith in the local authority data that there will be risks of insufficient places.

42. I have noted above that a similar number of children could leave the school even if it had a lower PAN so this is not a convincing justification. I examined the local authority forecasts in detail and

found them to appear reasonable in 2017 and 2018 given the number of factors that can cause variations in numbers of applications for school places in an area.

43. The evidence is that parental preference has matched the PAN of the school in recent years and that the demand for places is likely to increase. In these circumstances I do not find the trust's arguments to be sufficient justification for removing 20 places and reducing the PAN from 230 to 210 as there is convincing evidence of demand for the 20 places. I uphold the objection.

Determination

44. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by Uxbridge High School Academy Trust for Uxbridge High School situated in the local authority area of the London Borough of Hillingdon.
45. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
46. 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 of the date of the determination.

Dated: 28 November 2018

Signed:

Schools Adjudicator: Deborah Pritchard