



## Determination

<b>Case reference:</b>	<b>ADA3910</b>
<b>Objector:</b>	<b>A parent</b>
<b>Admission authority:</b>	<b>The Governing Board of the Holt School academy trust for The Holt School, Wokingham</b>
<b>Date of decision:</b>	<b>6 July 2022</b>

## 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 2023 determined by the governing board of the Holt School academy trust for The Holt School, Wokingham.**

**I have also considered the arrangements in accordance with section 88I(5) and find there is one matter which does 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 a parent, (the objector), about the admission arrangements (the arrangements) for The Holt School (the school), an 11 to 18 girls non-selective academy school for September 2023. The objection is to the clarity and fairness of the residency requirements for applicants.
2. The local authority for the area in which the school is located is Wokingham Borough Council. The local authority is a party to this objection. Other parties to the objection are the objector and the school's academy trust (the trust).

## 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 (also referred to as the governing board), which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 7 April 2022. The objector has asked to have his identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of his name and address to me. 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

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

5. The documents I have considered in reaching my 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 7 April 2022;
- d. the school's response to the objection;
- e. the local authority's response to the objection; and
- f. the local authority's composite prospectus for admissions to secondary schools in September 2022.

## The Objection

6. The objection is to the section of the admission arrangements titled 'Residency Requirements' and specifically to the section titled 'Home address'. The objection has two parts:

- The objector considers the policy unfair to parents who retain an existing property and move to a new residential property within twelve months of application submission.
- He also considers the arrangements unclear for parents owning more than one property.

## Other Matters

7. Having considered the arrangements as a whole it would appear that the following matters do not, or may not, conform with requirements.

- Oversubscription criterion G; “Children whose parents have a preference for single sex education”. It is not clear how this criterion is implemented and may not be compliant with paragraph 14 of the Code which states that; ‘In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.’
- The use of admission numbers in in-year admissions. Paragraph 1.2 of the Code states that; “As part of determining their admission arrangements, all admission authorities must set an admission number (PAN) for each ‘relevant age group’”. In the Holt School the relevant age group applies to year 7 (Y7) and Y12 only. Decisions to admit in-year should be based on possible prejudice to the provision of efficient education or the efficient use of resources and not on a predetermined number. It is only in the ‘relevant age groups’ that prejudice cannot be said to occur below the PAN.

8. I have accordingly decided to exercise my powers under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

## Background

9. The school is an oversubscribed non-selective academy school for 11 to 18 year-olds; it is a girls school up to and including Y11 and it has a mixed sixth form.

10. The governing board determined the admission arrangements for September 2023 at a meeting on 7 December 2021 and they are published on the school's website.

11. If the school is oversubscribed there are eight oversubscription criteria which can be summarised as follows;

- A. Looked after and previously looked after children
- B. Children with exceptional medical or social needs
- C. Children of staff
- D. Children who live in the designated catchment area who have siblings in the school
- E. Other children who live in the designated catchment area

- F. Children who do not live in the designated catchment area who have siblings in the school
- G. Children whose parents have a preference for single sex education
- H. Any other children.

There are suitable definitions in the arrangements for most terms used in the oversubscription criteria.

12. The Published Admission Number (PAN) is 240 for admission into Y7. In each of the previous four admissions rounds the school has been oversubscribed. In 2019 there were 310 first preference applications, in 2020 this number rose to 390 and in 2021 the number was 405. For the 2022 admissions the last child allocated was in oversubscription criterion E at a distance of 2.063 miles from the school. Of the unsuccessful applications, 55 fell into criterion E, 8 in criterion F, 57 in criterion G and 45 in criterion H. In short, the school is not able to admit all girls who live in its catchment area and would like a place.

## Consideration of Case

13. The objection refers to the section of the admission arrangements which covers residency requirements and in particular the section on Home Address. The arrangements state “Applications are processed on the basis of the child’s single permanent home address living with parent(s) or a carer/legal guardian at the closing date for applications. Reference to council tax records will be made to determine a single address for consideration of a place under criteria D or E. It is for the applicant to satisfy the school that they live at the address stated. Applicants will be asked to declare that the address will be their place of residence beyond the date of the pupil starting school. The school reserves its right to carry out further investigation and require additional evidence and to reject applications or withdraw offers of places, if it believed it has grounds to do so. In such cases, the applicant will have recourse to putting their application through the independent appeals process. It is important to declare if there is to be a change of address prior to the child starting school. If the applicant already owns a property which is in the process of being sold, we are able to accept the address of the new property only on submission of the appropriate evidence in support e.g., exchange of contracts letter on both the new property and disposal of their current property. The latest date for submission of evidence to support a move is 15 January 2023. If the move takes place later or evidence is submitted later, the school will only be able to consider this information after the initial allocation of places has taken place and treat the new address for waiting list purposes. Temporary addresses cannot be used to obtain school places. Where an applicant has two or more properties, evidence will be required showing the rental or disposal of the previous property. Temporary addresses will be considered where evidence is provided of a genuine reason for the move e.g., flooding or subsidence. If an applicant owns a property which they do not occupy and/or rent out and then move into another property within, or nearer to the designated area of the preferred school, the address of the property they own will be the address used for determining their designated area, unless the owned house has been

rented out for 12 months prior to the closing date for applications. Applicants are required to advise of any change of circumstance at any time prior to the child starting school. If the applicant does not declare such arrangements, or a different address is used on the application where the child does not usually live, it will be considered that a false declaration had been made and it may be decided to decline to offer a place at a particular school, or normally withdraw the offer of a place.”

14. The objector believes that the policy is unfair for parents who retain an existing property and move to a new residential family home within 12 months before the application deadline. He explains that the arrangements allow parents to complete the sale of a residential property and move to a new property at the latest on 15 January 2023 but if parents would like to retain the former residence and move to a new one a requirement is imposed to rent out the former residence for at least 12 months prior to the closing date. The arrangements do not give any option to provide sufficient evidence reasonably to disregard the former residence (rental agreement, break clause etc) to make an assessment based on personal circumstances. The objector refers to the arrangements as ‘hard coded duration’ which prevents the allocation of places to children who have legitimately moved to Wokingham to a new, owned, family home within the last 12 months and parents who have made the decision to retain the former property not to move back as soon as the place is offered but to secure a pension income in the future.

15. I understand that the objector is concerned with circumstances in which a family own two residential properties, one nearer to the school than the other and at least one of which is within the catchment area. The family have moved into the house nearer to the school/within the catchment area to live but have not rented out the former residence or have not rented it out for the required 12 months before the application deadline date. The arrangements in this case suggest that unless the previous residence was not sold or rented for a period of 12 months then this previous residence would still be considered to be the applicants’ single permanent home address. The objector considers this to be unfair.

16. The objector refers to the sentence in the arrangements which states that; “If an applicant owns a property which they do not occupy and/or rent out and then move into another property within, or nearer to the designated area of the preferred school, the address of the property they own will be the address used for determining their designated area, unless the owned house has been rented out for 12 months prior to the closing date for applications.” The objector says that this is not clear. The phrase “the address of the property they own” does not explain if this is the first or the second owned property.

17. In its response to the objection the local authority says that it recognises that many admission authorities seek to prevent the use of a temporary address by a parent in order to gain an unfair advantage in admissions. It goes on to suggest that these arrangements do not allow a family to provide evidence that, despite owning two properties and not renting the second property out that the address asserted to be the home address by the parent is in fact still genuine. The local authority says that this statement could be considered unfair as it does not make provision for an applicant to provide further evidence to rebut the presumption that they are using a second property to gain an unfair advantage

in admissions. It says that whilst a time bound requirement may be valid, the arrangements must also allow for parents to explain the validity of their address and their circumstances should be taken into account.

18. The school did not make any comment on the objection even when prompted to do so on two occasions.

19. I understand the need to prevent families seeking unfair advantage by moving house to a location nearer to a school or within a catchment area simply to fulfil the entry requirements and then returning to a former house further away when the child is admitted and admission arrangements must cover this eventuality. Where a family is actually living, however, is a matter of fact and arrangements can legitimately allow admission authorities to test evidence and make a finding of fact about where a family lives. These, the arrangements as they stand do something else. They do not allow a family to own two residencies, neither of which has been rented out for a 12 month period and declare, accurately, that the family residence is the one nearest the school. This renders the arrangements unfair and therefore non-compliant with paragraph 14 of the Code which states that “In drawing up their admission arrangements, admission authorities **must** ensure that the practices and criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” The arrangements require amendment.

20. The sentence in the arrangements which states “If an applicant owns a property which they do not occupy and/or rent out and then move into another property within, or nearer to the designated area of the preferred school, the address of the property they own will be the address used for determining their designated area, unless the owned house has been rented out for 12 months prior to the closing date for applications” is unclear. It does not explain which property is being referred to; the original home or the new home. My assumption is that the arrangements are referring to the original home but this is not clear. This makes the arrangements unclear and non-compliant with paragraph 14 of the Code. This part of the arrangements requires amendment.

## Other Matters

21. Having considered the arrangements as a whole it appeared that the following matters might not conform with requirements.

22. Oversubscription criterion G; ‘Children whose parents have a preference for single sex education’. It was not clear to me how the admission authority might decide on an objective and fair basis (as required by paragraph 14 of the Code which stipulates that all arrangements must be objective and fair) to give priority to a child’s application which sought priority by reason of preference for single sex education. In its response the local authority says that this is a “very commonly worded over-subscription criterion nationally for single sex schools but that it could be clearer about how it is applied.” The school said that it agrees with the local authority. Having reviewed the common application form for local authority secondary admissions, I see that there is a statement on the form which asks

parents if they are applying to the school on the basis that it is a single sex school with a response of yes or no. I am satisfied that this criterion can therefore be accommodated in the arrangements and that the local authority will have the responses from the application form in order to apply this criterion.

23. The use of admission numbers in in-year admissions. Paragraph 1.2 of the Code states that; “As part of determining their admission arrangements, all admission authorities must set an admission number (PAN) for each ‘relevant age group’”. In the Holt School the relevant age group applies to year 7 (Y7) and Y12 only. Decisions to admit in-year should be based on possible prejudice to the provision of efficient education or the efficient use of resources and not on a predetermined number other than to relevant age groups. The local authority did not comment on this. The school responded that they understood that the PAN applies only to the relevant age group and suggested an appropriate amendment to the arrangements which would conform to the Code. I am grateful to the school for this response.

## Summary of Findings

24. I understand why, in a heavily oversubscribed school it is particularly important to make the admission arrangements fair and clear to parents, indeed it is a requirement of the law and the Code. However, in trying to cover all eventualities of rogue applications in terms of home address the trust, rather than making them fair and clear has made them unfair and unclear to families who own two or more residencies in the area but have not necessarily rented out for twelve months those houses which are not the family home. This is contrary to paragraph 14 of the Code and the arrangements require amendments to cover these points.

25. The in-year admission section of the arrangements requires amendment as suggested by the school to conform to the Code’s requirements on PANs.

## Determination

26. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2023 determined by the governing board of the Holt School Academy trust for The Holt School, Wokingham.

27. 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.

28. 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: 6 July 2022

Signed:

Schools Adjudicator: Ann Talboys