



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3916

Objector: London Borough of Bromley

Admission authority: The academy trust for Chislehurst School for Girls

Date of decision: 15 July 2022

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 academy trust for Chislehurst School for Girls, in the London Borough of Bromley.

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 Bromley (the objector, the LA), about the admission arrangements (the arrangements) for Chislehurst School for Girls (the school), an academy school for girls aged 11 to 18, for September 2023. The objection is to the published admission number (PAN).
2. The local authority (LA) for the area in which the school is located is the London Borough of Bromley, which is the objector. The parties to the objection are the LA and the academy trust for the school.

Jurisdiction

3. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing board acting on behalf of the academy trust, which is the admission authority for the school, on that basis. The objector submitted its objection to these determined arrangements on 22 April 2022. 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 22 April 2022, supporting documents and its responses to my enquiries;
- d. the school's response to the objection, supporting documents and its responses to my enquiries;
- e. a map of the area identifying relevant schools;
- f. confirmation of when consultation on the arrangements last took place and details of the nature of the consultation and responses to it; and
- g. the academy funding agreement for the school.

The Objection and other matters

6. The LA objects to the reduction in the school's PAN from 224, which is the PAN for admissions in September 2022, to 210, which, following consultation, is the PAN determined for September 2023. The LA says that this reduction "would take needed places out of the secondary school system" and "could impact on the Council's delivery of its sufficiency duty."

7. The LA does not refer to specific sections of legislation or the Code. I propose to consider whether the arrangements are in breach of the following requirement of the Code:

“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.” (Paragraph 14).

Reducing the PAN could lead to unfairness if it is likely that children living in the area would not be able to be allocated a school place within an acceptable distance of their homes or, potentially, within the LA area at all.

8. Having considered the arrangements as a whole it appeared to me that the following matters did not conform with the requirements relating to admissions:

- a) priority is given to children of staff who have been employed by the school for one or more years. Paragraph 1.39 of the Code stipulates that priority can only be given to children of staff employed at the school for two or more years;
- b) there is no tie-breaker to decide between applicants whose distance from the school is equal, as required by paragraph 1.8 of the Code;
- c) the process for requesting admission out of the normal age group is not made clear, as required by paragraph 2.18 of the Code; and
- d) the PAN for external students admitted to the school's sixth form is not specified. A PAN should be set for each “relevant age group” and oversubscription criteria determined for external applicants (paragraphs 1.2 and 2.6 of the Code).

Background

9. The school is a comprehensive, single-sex school for girls aged 11-18, which admits boys into its sixth form. It is situated in Chislehurst, which is in the northern part of the London Borough of Bromley, close to the boundary with the London Borough of Bexley. Within Bromley there are 19 secondary schools, two of which are selective. The other 17 schools admit children of all abilities, seven of these being single-sex schools (four for girls and three for boys).

10. The governing board consulted on a number of changes to the school's admission arrangements for admission in 2023. After consultation, several of the proposed changes were not included within the determined arrangements, but the reduction in PAN was confirmed. The oversubscription arrangements can be summarised as follows:

- (i) Looked after and previously looked after children.
- (ii) Siblings of students who will be attending the school when the younger sibling starts at the school.
- (iii) Children of staff.
- (iv) Proximity to the school.

11. The Academy funding agreement states that the capacity of the school is 1344 students including a sixth form for 340. The arrangements determined for 2023 state that “The admission number for Year 12 (Y12) will be 200, including external places.” As I pointed out in paragraph 8 d), the Code requires that a PAN for external students (that is, those being admitted to the school for the first time to Y12) be specified, rather than an overall number who could be accommodated in Y12 which would include those continuing from Year 11 at the school.

12. The school told me that the number of students in each year group as at 7 June 2022 was as shown in Table One below.

Table One: Number of students in each year group at the school

Year	7	8	9	10	11	12	13	Total
Number on roll	189	168	198	176	186	83	102	1102

Consideration of Case

13. The LA states in its objection that “current Year 7 rolls across the borough are over 95% of capacity with many schools operating above their PAN.” It says that on the national offer day, 224 offers were made to parents of girls who had made the school one of their six preferences, 99 of which were first preferences, and that there were 37 girls on the waiting list, all of whose parents had made the school a higher preference than the school that had been offered. I infer that the LA believes that these figures serve to illustrate the demand for places at the school and that a reduction in PAN would reduce the satisfaction of parental preference. The objection concludes:

“The Council is seeking the view of the Office of the School Adjudicator on this matter and for the school to revert to their previous PAN of 224 for 2023 admissions and beyond.”

14. I should make clear that my consideration of the LA’s objection relates solely to the PAN determined for admission in 2023. This determination does not relate to the PAN, or indeed any other aspect of the arrangements, for admission in subsequent years as the arrangements for those years have not yet been determined and cannot therefore be within my jurisdiction, which extends only to determined arrangements. Nevertheless, it is important that I consider the impact of the reduction for future years, as well as admission in 2023. This is because paragraph 3.3 of the Code makes clear that objections cannot be made to the Schools Adjudicator about an admission authority’s “decision to increase or keep the same PAN.” Therefore, if I do not uphold the LA’s objection, the school may keep the PAN at 210 in subsequent years without the possibility of its being challenged.

15. At my request, the LA provided data to support its contention that there is significant pressure on secondary school places in the borough. Table Two shows the combined PANs

for admission to Y7 for the 19 secondary schools, the numbers admitted in 2021 and 2022 and the surplus, that is, the number of unfilled places expressed as a percentage of the combined PANs.

Table Two: Combined PANs and admissions to Year 7 in 2021 and 2022

Year of admission	Combined PANs	Number admitted	Surplus
2021	4017	3937	2.00%
2022	4035	3989*	1.14%

* Places offered as at 17 June 2022

16. The figures in Table Two do not, of course, reveal the position at individual schools. For admission in September 2022, only three of the 19 schools had not offered places up to their PAN; six had offered more places than their PAN. The LA says,

“For Year 7 places the Council plans for a surplus of 5% of places, this is both to allow for fluctuations in need and to ensure that there remains an element of choice for parents.”

17. These figures show clearly that there has been a very close match between the sum of the PANs of the secondary schools in the LA area and the demand for places. I asked the LA for its forecast for the demand for places in 2023 and subsequent years. This information is shown in Table Three.

Table Three: Forecast demand for Year 7 places

Year of admission	Forecast demand
2023	4075
2024	3989
2025	4009
2026	4037

18. There is a close match between the forecast demand for places and the combined PANs of the 19 secondary schools (4035). In particular, for admission in 2023 the forecast demand exceeds the sum of the PANs. Of course, much depends on the accuracy of the forecasts. Therefore, I asked the LA for details about past years, comparing its forecasts made a year in advance for the intakes into Y7. Table Four shows this information.

Table Four: Forecasts made a year earlier and numbers admitted into Year 7

Year of admission	Forecast	Number admitted	Difference from forecast
2019	4043	4023	0.49%
2020	4015	3849	4.13%
2021	4138	3937	4.86%
2022	4195	3989*	4.91%

*Places offered as at 17 June 2022

19. Table Four shows that the LA’s forecasts have over-estimated the demand for places by over four per cent in each of the past three years. The LA points out that the most recent Government Basic Need scorecard, dating from 2020, indicated that the LA’s forecasts are “reasonably accurate”, with average over forecasts of 1.4 per cent when made a year in advance and 3.9 per cent when made three years earlier. The LA admits that,

“In recent years there has been more fluctuation between forecasts and actual rolls due to factors such as changes in migration patterns arising from Brexit and the impact of Covid.”

20. In respect of the forecast for Y7 places in 2023, which is the highest shown in Table Three, I calculated what the demand would be if the forecast were to be above the actual figure by 1.4 per cent (the LA’s average according to the 2020 Basic Need scorecard) and by 4.9 per cent (the over forecast for 2022). I then compared these figures to the combined PANs of 4035, which, the LA has confirmed, will be unchanged in 2023 from the 2022 total, if the PAN for the school were to remain unchanged. Table Five gives this information and also compares the forecasts for subsequent years in the same way.

Table Five: Comparison of forecasts with total of PANs (4035) at over forecasts of 1.4 per cent and 4.9 per cent

Year of admission	Forecast	Forecast less 1.4%	Surplus	Forecast less 4.9%	Surplus
2023	4075	4018	0.42%	3875	3.97%
2024	3989	3933	2.53%	3794	5.97%
2025	4009	3953	2.03%	3813	5.50%
2026	4037	3980	1.36%	3839	4.86%

If the PAN at the school were to be reduced from 224 to 210, the total of the PANs for secondary schools in the borough would reduce by 14 places to 4021. The effect of this reduction would be to reduce each surplus figure in Table Five by 0.34 percentage points. Thus for 2023 the “forecast less 1.4%” surplus would be 0.08 per cent (which is just three places) and the “forecast less 4.9%” surplus would be 3.63 per cent.

21. In summary, the LA is forecasting an overall shortfall of Y7 places of 40 for 2023, which would increase to 54 if the school’s PAN were to be reduced to 210. Historically, though, the LA has over forecasted the demand for places. If the over forecast is of the order of 1.4 per cent, there will be a very close match between the number of places available and the combined PANs. If the over forecast is at the level of over forecasting the demand for places in 2022, then in 2023 there would be a surplus of nearly four per cent. For 2024 and 2025, the forecasted demand is below the combined PANs. Therefore if these forecasts prove to be greater than the actual demand for places, the surplus capacity will be higher: between two and six per cent, depending on the level of over forecasting.

22. Of course, it is possible that the forecasts for 2023 will prove to be accurate. Local authorities have to plan on this basis. I asked the LA to explain how it plans to meet the demand for places in 2023, which it forecasts as 4075, 40 more than the combined PANs of the 19 secondary schools (54 more if the school’s PAN is reduced to 210). The LA’s response provides some context for the current pressure on secondary school places in the borough. Approval from the Department for Education was obtained in 2017 for a new secondary free school in the borough, but this still has no confirmed opening date, which, the local authority says,

“provides the Council with significant uncertainty and challenges ensuring that there are sufficient school places available. If the school was open there would be no current further projected need to increase secondary places in the borough.”

In the meantime, the LA has worked with local secondary schools to increase their PANs temporarily to help to meet the shortfall in places in advance of the opening of the free school and it has contingency funds within its capital programme if the physical capacity of schools needs to be increased. It also works with neighbouring LAs through the “Pan London admissions process” to find places for pupils if there is a shortfall.

23. I turn now to the school’s reasons for wishing to reduce its PAN. The headteacher explained that, in her view, the optimum arrangements of students at the school would be seven groups (these are called “forms” by many schools) of 30, which would require a PAN of 210. The current PAN of 224 would require each group to comprise 32 students, if the school were fully subscribed and there were seven groups. The headteacher says that 30 is the maximum safe number that can be accommodated in the “main school classrooms”, which date from 1931. Adding two more children to groups “would inhibit a safe and swift fire evacuation.”

24. The headteacher also points out that the school has not admitted “close to” 224 students into Y7 in recent years. This is borne out by the figures in Table One, which show

that none of the year groups at the school comprises as many as 200 students. She also says that having a PAN of 224 means that,

“the Borough directs all in-year girls to us - we received 21 in-years in the Autumn term alone and this can destabilise a year group and put too much pressure on pastoral and safeguarding provision and can prejudice the efficient education of the rest of the cohort.”

She states that since the national offer day, the number of students expected to be admitted to the school in Y7 in September 2022 has fallen and there is no longer a waiting list. She concludes that “210 is realistic, safe and gives us a sensible measure of 7 classes of 30.”

25. There is in fact, a difference between the number of students the school says it expects to admit and the LA’s current figures. As of 8 July 2022, the LA told me that its database showed that there were “222 offers made” and two children with Education, Health and Care Plans (EHCP) naming the school, “and a waiting list of 4 pupils.” According to the school, its own figures, as of 11 July, confirm “that we now have 214 students for September 2022 and this number includes 3 EHCP students.”

26. This difference between the figures held by the LA and the school is regrettable. The school explains that “we lose girls to the local grammar schools as places become available on their waiting list.” There is also a possibility that some will appeal successfully for places at other schools, as parents of only 99 of those allocated places at the school on the national offer day made it their first preference.

27. I appreciate the school’s reasons for seeking a reduction in its PAN and understand that there may be some frustration that it is not able to plan with certainty for a model of 30 students in each class. I asked the school whether it would consider a model of eight groups of 28 students, should it be fully subscribed to its PAN of 224, rather than seven groups of 32, which it considers unsafe. The headteacher responded that such a model “does not lead to good financial planning for economies of scale”. This may well be the case, but I have not been presented with financial data to prove that it is impossible to organise in this way, if necessary. In fact, the 189 students currently in Y7 are organised in seven groups of 27 and the 168 students in Y8 are in six groups of 28, although I accept that this is not the state of affairs the school would prefer. I also note that only eight of the 19 secondary schools in the borough have a PAN that is a multiple of 30. Two others have PANs of 224 and other PANs include 220, 232 and 168.

28. In coming to a decision as to whether to uphold the objection to the reduction, I must assess the school’s concerns in the context of the LA’s overriding duty to ensure that every child has a secondary school place within a reasonable distance of their home. The LA treats the whole of the borough as a single planning area. Its forecasts for the demand for places have not been as accurate over the past three years as they were prior to 2020. There are perhaps good reasons for this, related to events such as Brexit and the pandemic. If the pattern of over forecasting were to persist at the scale of the forecasts for 2020 to 2022, there would be likely to be an oversupply of places of three to four per cent if

the school's PAN were reduced to 210. This would be close to the LA's target of five per cent.

29. However, I cannot be certain that the forecast for admission in September 2023 will prove to be too high by a similar margin to 2020 to 2022. It may be that the effect of external factors will become less pronounced over time. I must also take into account that, at the time of writing, the school is still expecting to admit in excess of 210 students in September. I have come to the conclusion that in what may be considered unusual and uncertain times, it would be unwise to reduce the overall secondary school capacity in the borough at this time. There is, in my view, the potential that the reduced PAN will cause unfairness to a group of students who may be unable to obtain a school place within the borough. Such unfairness represents a breach of paragraph 14 of the Code.

30. Nevertheless, I am impressed by the school's arguments and its desire to establish a structure of classes that it believes is educationally appropriate and safe for the premises in which it works. The LA's forecasts for the demand for places in Y7 for 2024 onwards are lower than for 2023. The establishment of the proposed free school, which will clearly add to the local supply of secondary school places, is also a significant factor. The LA has said that the opening of the new school will remove any need to increase places. I consider that the case for a reduction in PAN may well be stronger in the future. My jurisdiction only extends to admission in 2023 and my conclusion relates to the expected circumstances in that year only. It is open to the school to consult again on the basis of reducing its PAN for 2024 or a later year. If demand had fallen and/or the supply of places increased, the conclusion by an adjudicator to any objection at that time might well be different.

31. I uphold the objection. The PAN for the school for admission to Y7 for 2023 must remain at 224.

Other matters

32. The school recognised the need to address the matters listed in paragraphs 8 b) and d) above and undertook to include a suitable tie-breaker and a PAN for external applicants to the sixth form, respectively. It must also amend the oversubscription criterion giving priority for children of staff so that it states that staff must have been employed by the school for two years or more. A description of the process for requesting admission outside the normal age group should also be included in the arrangements. These changes must be made to ensure that the arrangements meet the requirements of the Code listed in paragraph 8 above.

Summary of Findings

33. The school determined a reduced PAN of 210 for admission in September 2023, citing educational and safety reasons. The LA argues that the reduction could compromise its ability to meet its duty to provide sufficient secondary school places. Although the LA has quite significantly over forecasted the demand for places over the past three years, I consider it to be prudent at this time to maintain the existing level of capacity; I also take

into account that, at the time of writing, the school expects to admit more than 210 students in September 2022. The reduction in PAN has the potential to cause unfairness to some students who would have difficulty in obtaining a school place in the borough. This breaches paragraph 14 of the Code. I uphold the objection. The PAN must not be reduced. There are other matters in the arrangements that do not comply with the Code and these must be addressed.

Determination

34. 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 academy trust for Chislehurst School for Girls, in the London Borough of Bromley.

35. 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.

36. 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: 15 July 2022

Signed:

Schools Adjudicator: Peter Goringe