



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA4251 The Dukeries Academy, Nottinghamshire

**Objector:** Nottinghamshire County Council

**Admission authority:** Academy Transformation Trust

**Date of decision:** 21 May 2024

## 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 2025 determined by Academy Transformation Trust for the Dukeries Academy, Newark, Nottinghamshire.

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 Nottinghamshire County Council, (the objector, the LA), about the admission arrangements (the arrangements) for the Dukeries Academy (the school), a secondary school for children aged 11-18, part of the Academy Transformation Trust (the trust), for September 2025.

2. The objection states that:

- as part of the statutory consultation process, the full proposed admission arrangements were not available for the full consultation period on the academy or the trust's websites;
- the determined admission arrangements reference capacity for sixth form and do not make clear the Published Admission Number (PAN) for Y12;
- the general admission arrangements (determined) are not clear or easy for parents to understand;
- the proposed reduction of the Y7 PAN from 180 to 168 would generate a shortfall in school places at the Dukeries Academy in future years and impact on the LA's statutory duty to provide a sufficiency of school places.

3. The local authority for the area in which the school is located is Nottinghamshire County Council (the local authority). The local authority is the objector. The other party to the objection is the Academy Transformation Trust (the trust) as the admission authority for the Dukeries academy (the school).

## Jurisdiction

4. The terms of the Academy agreement between the multi-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 trust, which is the admission authority for the school, on that basis, on 23 January 2024. The local authority submitted their objection to these determined arrangements on 4 March 2024. 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. a copy of the minutes of the meeting of the trust board at which the arrangements were determined and of the report to trustees referred to in those minutes;
  - b. a copy of the determined arrangements;
  - c. the local authority's objection of 4 March and supporting documents with particular note to their appendix 1 (details of their objections to the overall clarity and ease of understanding of the arrangements), appendices 3Ei (Pupil Planning Dashboards) and 3Eii (Dukeries Academy Dashboard), appendix 4 (pupil projections) and appendix 5 (allocations);

- d. the trust's response to the objection and supporting documents;
- e. the trust's response to the matters raised in appendix1 (as above)

## The Objection and Other Matters

7. The aspects of the local authority's objection that I can consider are:

- 7.1 that the full proposed admission arrangements were not available for the full period of consultation on the academy or the trust's websites;
- 7.2 that the PAN for Y12 is not clear; and
- 7.3 that the proposed reduction in PAN for the Dukeries Academy for the 2025-2026 year of entry from 180 to 168 would impact on the LA's statutory duty to provide a sufficiency of places.

8. In their email of 4 March 2024, the local authority raised an objection to a general lack of clarity in the admission arrangements for the school leading to them not being easy for parents to understand. In their response to my letter of 7 March 2024, they set out a detailed list of the points within the admissions arrangements which they considered to fall under this element of the objection. I will deal with those which fall within my jurisdiction systematically in the section 'Consideration of the Case' below, where I will refer to the relevant sections of the Code.

9. The local authority considers that the consultation was in breach of the Admissions Code (the Code), which states in paragraph 1.48:

"For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on the school's website or its own website (in the case of a local authority) together with details of where comments may be sent and the areas on which comments are not sought. Admission authorities **must** also send, upon request, a copy of the proposed admission arrangements to any of the persons or bodies listed above inviting comment. Failure to consult effectively may be grounds for subsequent complaints and appeals. "

10. The local authority considers that the absence of a clear PAN for Y12 entry is in breach of the Code which states in paragraph 1.2:

"As part of determining their admission arrangements, all admission authorities **must** set an admission number for each 'relevant age group'."

The local authority states that:

"The determined arrangements make reference to a capacity of 150 places for YR12 at the school, made up of 100 internal and 50 external places. There is no mention of a PAN for this point of entry into the school."

11. The local authority stated in their response to the consultation dated 15 January 2024:

“Any reduction in PAN would impact on local families when their children move to the secondary phase of education. On reviewing the data around projected demand for secondary school places in the local area over the coming 5 year period, the proposal to reduce the PAN from 180 to 168 will not ensure a sufficiency of Y7 places. NCC cannot support the proposal to reduce the PAN to 168.”

12. The local authority goes on to say:

”There is a significant shortfall of places in the Newark district, where the school is situated. NCC has been working with other schools in the Academy Transformation Trust to enable the LA to discharge its statutory duty to secure provision of school places and increase capacity to ensure a sufficiency of school places....Any reduction to PAN would impact on the LA’s statutory duty to provide a sufficiency of places.”

13. Paragraph 1.3 of the Code states:

“All admission authorities **must** consult in accordance with paragraph 1.45 below where they propose a decrease to the PAN. “

## Background

14. The Dukeries Academy (the school) is an 11-18 mixed, non-selective secondary school with a sixth form, located in Newark in Nottinghamshire. The local authority is Nottinghamshire County Council (the LA). The school is part of the Academy Transformation Trust (ATT) and opened as an academy on 1 January 2013. At its last Ofsted inspection, in October 2021, the school was judged to be Good. According to GIAS (the government’s website Get Information About Schools), the school has a net capacity of 750 for years 7-11, with a capacity for a further 150 children in the sixth form.

15. Along with Tuxford Academy, the school forms the Ollerton-Tuxford planning area for the purposes of school place planning by the LA.

16. The school had a PAN for Y7 of 150 when it opened as an academy in 2013. This was increased to 180 in 2016 and this has remained unchanged until the arrangements were determined for 2025. The PAN for entry to Y12 is less explicit and I will address this below, though the admission arrangements (the arrangements) indicate that there is a net capacity of 150 places for the sixth form.

17. The school has not been oversubscribed in any year, either at the Y7 or Y12 point of entry in the last 6 years. The school has stated that there are 158 children in the current (2023/24) Y7 cohort and a total of 63 children in the sixth form.

18. The admissions authority for the school is the trust (specifically the Board of Trustees). They determined the admissions arrangements for the 2025 year of entry on 23 January 2024. Prior to their consultation on the 2025 arrangements, the trust last carried out a statutory consultation on their admission arrangements in 2019.

19. The trust has delegated authority for in-year admissions to individual academies. As this is one of the points raised by the local authority in their response to my letter of 7 March 2024, I will address this specifically below. The trust has stated that the only change to the previous year's arrangements, as applicable to the school, was in relation to the reduction of PAN for Y7.

20. The admission arrangements for all 20 schools within ATT are included in a single document. As the schools are located across a wide geographic area, the schools fall within a number of different local authorities. The single document, therefore, seeks to address all the potential variations across local authorities in one place.

21. The school has not been in a position where it has needed to apply the oversubscription criteria, but I summarise them below for ease of reference (taken from the determined admissions arrangements, section 5.1):

- i. looked after children and all previously looked after children;
- ii. siblings of current pupils who were on roll at the point of admission;
- iii. children of permanent and support staff;
- iv. children who attend an ATT Primary Academy;
- v. in the case of the Queen Elixabeth Academy (Atherstone), other children by catchment area (as defined by Warwickshire County Council)... In the case of all other academies, other children by distance from the academy...

## Consideration of Case

21. I will now look at the concerns raised by the local authority in the order set out above.

**Firstly, that the full proposed admission arrangements were not available for the full period of consultation on the academy or the trust's websites.**

22. The trust consulted on the admission arrangements for the 2025 year of entry from 24 November 2023 until 19 January 2024. On 27 November 2023, the trust sent copies of a letter setting out the proposed changes to PAN to the following:

- Local parents with children at the school or under school age
- Residents/people in the area with an interest in the proposal
- All other relevant admission authorities within the local area
- The local authority
- Neighbouring local authorities

23. The local authority stated in their letter of response to the consultation to the trust dated 15 January:

“NCC received notification on 27<sup>th</sup> November 2023 from the Trust that the admission arrangements for 2025-2026 were being consulted on between 24 November 2023 and 19 January 2024. This notification only included a summary of the proposed change and did not include the full proposed arrangements. NCC requested on several occasions a copy of the full proposed arrangements and was provided this on 21 December 2023. NCC has also not been able to find a copy of the full proposed arrangements on either the school or Trust’s website. NCC would therefore consider that this could be considered not to comply with 1.47 and 1.48 of the Code.”

24. Paragraph 1.47 of the Code sets out with whom admission authorities **must** consult, including:

“d) whichever of the governing body and the local authority is not the admission authority.”

25. The trust has stated that the proposed arrangements were published on their website “clearly showing that it was out for consultation.” They have also stated that there were “no other proposed changes to the policy“ and that the letter of 27 November 2023 was designed to draw attention specifically to the proposed change in PAN for Y7.

26. The local authority’s initial objection was received by the adjudicator’s office on 12 February 2024. On looking at both the trust’s and the school’s websites on 14 February 2024, I found that the admissions arrangements for 2025-2026 were on both websites, along with the current admission arrangements for 2024-2025. The letter of 27 November 2023 was featured on the front news page of the school’s website. The only inconsistency apparent was that the 2025-2026 arrangements on the school’s website showed the date of determination (23 January 2024), while the document on the trust’s website did not. The contents of both documents were otherwise identical.

27. Clearly it is not possible for me to check the availability of the full arrangements retrospectively, but the trust has clearly stated that the arrangements were on their website.

28. The local authority objected that they were not able to find the admission arrangements and that they did not receive a copy, despite numerous requests, until 21 December 2023. Given the Christmas holiday period, this did significantly reduce the amount of time that the local authority had to consider the full arrangements before the deadline of 19 January 2024.

29. The local authority sent their response to the trust on 15 January 2024 and the Chief Executive Officer (CEO) has confirmed, in his response to my letter of 7 March 2024, that the content of the letter was:

“both referred to in the Admissions Consultation Report and was also made available to the Trustees as is detailed in the report.”

30. I note also that the trust had amended the admission arrangements on all points, save the PAN, that were raised by the local authority in its response letter of 15 January 2024.

31. The delay in sending the local authority a full copy of the admission arrangements until 21 December 2023 is in contravention of paragraph 1.48 of the Code.

32. On balance I accept the trust's statement that the arrangements were available on the school and trust websites for the full duration the consultation.

33. I, therefore, partially uphold the objection on this matter in relation to the delay in sending a copy of the full admissions arrangements to the local authority until 21 December 2023. I have found no compelling evidence to prove that the arrangements were not available on the school and trust websites for the full duration of the consultation and therefore do not uphold this element.

34. It is open to an adjudicator to determine that there has been a failure to consult in accordance with the relevant legal requirements, and, therefore, a failure to comply with both the 2012 School Admissions Regulations and the School Admissions Code. However, an adjudicator cannot impose a requirement upon an admission authority to re-consult after it has determined the arrangements even if the consultation has not been conducted in accordance with the requirements of the Regulation and the Code. Nor can the adjudicator require the admission authority to re-instate the previous year's arrangements.

**Secondly that the PAN for Y12 is not clear.**

35. The local authority's objection states that:

“the determined arrangements reference capacity for sixth form and do not make clear the PAN for year 12”.

36. The arrangements themselves say that:

“The number of places available in Year 12 for our academies is listed below. However, where an applicant meets the minimum entry requirements, we will exceed PAN if we are able to.”

37. The table below is as set out in the arrangements for the school. I will refer later to the fact that there is no PAN for internal candidates.

Admission into Year 12	Capacity
The Dukeries Academy (Capacity 150)	100 internal plus 50 external

38. The Code states at paragraph 1.2:

“As part of determining their admission arrangements, all admission authorities **must** set an admission number for each ‘relevant age group’.”

39. In the school's case, it must, therefore, set an admission number for both Y7 and

Y12. It is clear from the arrangements that it has not published an admission number for Y12 and has only referred to capacity. At paragraph 2.6, the Code states that children who are already on roll are not required to apply for sixth form places as long as they meet any entrance requirements. Therefore, the reference in the table to capacity for internal students is not relevant.

40. In the trust's response to my letter of 7 March 2024, the CEO says:

"it is acknowledged that the table showing the number of places available is labelled 'Capacity' rather than 'PAN' and we are happy to make that change."

41. I uphold the local authority's objection that the PAN for Y12 is not clear.

42. I am grateful for the positive approach of the trust in agreeing to rectify this.

**Thirdly, that the proposed reduction in PAN for the Dukeries Academy for the 2025-2026 year of entry from 180 to 168 would impact on the LA's statutory duty to provide a sufficiency of places.**

43. In its letter to parents and stakeholders of 27 November 2023, the trust made the following statements (I have taken key extracts rather than reproduce the text in full):

"Academy Transformation Trust is consulting on a reduction in the published admission number (PAN) at The Dukeries Academy from 180 to 168 from 1<sup>st</sup> September 2025.

The current PAN for the Dukeries Academy of 180 divides into six sets of thirty in each. The change to a PAN of 168 will divide four sets of thirty and two slightly smaller lower ability sets of twenty-four, better serving the higher number of children with SEND now being admitted into the school....the change to a PAN of 168 would accommodate even the largest of the current year groups, and would accommodate all local children going forward.

According to Local Authority data, a reduction of PAN at The Dukeries to 168 would not cause a problem with sufficiency of places locally."

44. In its response to the trust on 15 January 2024, the local authority stated that:

"Any reduction in PAN would impact on local families when their children move to the secondary phase of education. On reviewing the data around projected demand for secondary school places in the local area of the coming 5-year period, the proposal to reduce the PAN from 180 to 168 will not ensure a sufficiency of Y7 places."

In its objection to the Office of the Schools Adjudicator (OSA), the local authority said the following:

"The admission arrangements for The Dukeries Academy (part of the Academy Transformation Trust) proposed a reduction of the published admission number from 180 to 168. There is a significant shortfall of places in the Newark district, where the school is situated. Nottinghamshire County Council (NCC) has been working with other schools in the Academy Transformation Trust to enable the LA to discharge its duty to secure provision of school places and increase capacity to ensure a sufficiency of school places. The primary bulge which is working its way into the secondary sector has seen an increase in demand for secondary school places. Any reduction to PAN would impact on the LAs statutory duty to provide a sufficiency of places. The academy indicated the rationale for reduction is in respect of better



organisation within the Academy and enhancement of the ability of the academy's senior leadership team. Local Authority data shows a shortfall of places at the Dukeries Academy in future years."

45. The local authority has a statutory duty to provide sufficient school places for the children within its jurisdiction. In order to accomplish this, local authorities divide their area into planning areas for the purposes of forecasting pupil numbers and ensuring that there are sufficient places at its schools for all of the children within its borders.

46. What is evident from the conflicting statements above is that there was a difference in opinion between the local authority and the trust at the time of the objection as to the number of pupil places that would be needed in the Ollerton-Tuxford planning area for September 2025.

47. Table 1 below sets out the LA forecast figures for Y7 for the two schools in the planning area for the next five years, with the PAN for the school at the current determined level of 168. The figures are based on 2023 data.

	<b>PAN</b>	<b>2025/26</b>	<b>2026/27</b>	<b>2027/28</b>	<b>2028/29</b>	<b>2029/30</b>
<b>The Dukeries Academy</b>	168	170	184	168	165	189
<b>Tuxford Academy</b>	248	252	255	261	233	275
<b>Total</b>	416	422	439	429	398	464
<b>Surplus or Shortfall of Places</b>		-8	-23	-13	+18	-48
<b>Surplus or Shortfall of Places as a Percentage</b>		-1.9	-5.5	-3.1	+4.3	-11.5

Table 1 clearly shows that there is a forecast deficit of places across the planning area for every year of entry except 2028/29.

48. Table 2 below shows the LA forecast figures for Y7 for the two schools in the planning area for the next five years with the PAN set at the previous level of 180. The figures are based on 2023 data.

	<b>PAN</b>	<b>2025/26</b>	<b>2026/27</b>	<b>2027/28</b>	<b>2028/29</b>	<b>2029/30</b>
<b>The Dukeries Academy</b>	180	170	184	168	165	189
<b>Tuxford Academy</b>	248	252	255	261	233	275

<b>Total</b>	428	422	439	429	398	464
<b>Surplus or Shortfall of Places</b>		+6	-11	-1	+30	-36
<b>Surplus or Shortfall of Places as a Percentage</b>		+1.4	-2.5	-0.2	+7	-8.4

Table 2 demonstrates that, even with the PAN set as it has been in previous years at 180, the local authority is still forecasting deficits in pupil places, albeit smaller, in three of the next five years.

49. Based on the data provided by the local authority, it seems that parental preference within the planning area is likely to be frustrated from 2025 onwards, except for the 2028 year of entry. The current determined PAN of 168 will materially increase the level of frustration of parental preference in coming years.

50. The DfE document, “Basic need allocations 2025-26: Explanatory note on methodology”, refers to the need for two per cent surplus capacity in the number of school places “to provide an operating margin for local authorities. This helps to support parental choice, pupil population movement, and general manageability of the system”.

While this is not a basic need allocation and the LA has not provided me with its own operating margins, this serves as a useful indicator of the need for surplus places within the system. The data in the tables clearly demonstrates that the local authority is going to be unable to meet the two per cent surplus capacity target even if the objection is upheld and that its position will be substantially worsened if the objection is not upheld.

51. Given that there is only one other secondary school in the planning area, the current determined PAN of 168 will increase pressure on Tuxford Academy to admit over their PAN of 248. While Tuxford’s view on the current determined PAN has not been sought, and no objection has been received from them, an increase of pupils over PAN has the potential to cause prejudice to the effective provision of education at that school.

52. Given the data provided, the likely frustration to parental preference, the lack of capacity across the planning area and the local authority’s statutory duty to provide sufficient school places, I uphold the objection to the reduction of PAN from 180 to 168 for the 2025/26 year of entry.

53. I note from correspondence from the trust that they have reviewed their position since the objection was submitted and it is for them, as the admissions authority, to set the PAN following this determination.

**Fourthly that the general admission arrangements (determined) are not clear or easy for parents to understand.**

54. The Code states at paragraph 14. Overall principles behind setting arrangements:

“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.”

55. The local authority raised a number of issues in its consultation response letter to the trust of 15 January 2024 and it is noted that the trust updated the arrangements in line with the suggestions raised in that letter (with the exception of the PAN, which I have examined above).

56. In response to my letter of 7 March 2024, the local authority has raised further issues which I will deal with systematically below.

57. At 3.2 the arrangements state:

“For **all** our academies, initial applications for in-year admissions should be made directly to the academy. Applications will be considered by a panel of 3 members which consists of a senior member of staff in charge of admissions in the academy together with 2 others from amongst: The Local governing Board, Trust Leaders, External admissions consultants.”

58. The local authority says that “It is not clear whether all members of this panel meet 2.7 of the Code.”

59. The Code states at paragraph 2.7:

“Where the school is its own admission authority the whole governing body, or an admissions committee established by the governing body, **must** make such decisions. The admission authority **must** keep a clear record of any decisions on applications, including in-year applications.”

60. I agree with the LA’s view that it is not clear as to whether the members of the panel are or are not appointed by the governing body and, therefore, uphold this element of the objection.

61. I note with thanks the trust’s response that it will add a sentence to the arrangements stating that the panel members will be established by the governing body.

62. At 3.3 the arrangements state:

“Appropriate SEN expertise will be sought on the panel in the case of applications from pupils with an EHCP.”

63. The local authority says that this:

“Is unclear for parents of children with an EHCP as the arrangements refer to applications from pupils with an EHCP being considered by the panel. Children with an EHCP naming the school are not required to submit an application.”

64. The Code states at paragraph 1.6 that:

“All children whose Education, Health and Care Plan names the school **must** be admitted.”

65. I uphold the local authority’s objection to 3.3 of the arrangements as it is unclear and could give parents the impression that they would need to submit an in-year application for their child even though they have an EHCP naming the school.

66. I note with thanks the trust’s response and proposal to remove the clause that states that “Appropriate SEN expertise will be sought on the panel in the case of applications from pupils with an EHCP.”

67. The local authority states that:

“The arrangements use several different terms in relation to the admission number, i.e. published admission number, admission number and capacity. NCC considers it would be clearer for parents if the arrangements consistently referred to Published Admission Number for each relevant age group (including year 12) to enable parents to understand how many places are available in the year group.”

68. I agree with the local authority on this point and concur that the consistent use of Published Admission Number throughout the arrangements would be clearer for parents to understand. I therefore uphold this element of the objection.

69. I note with thanks the trust’s agreement to refer to PAN throughout the arrangements.

70. At 5.1(i) the arrangements state:

“**Looked after children and all previously looked after children.** Looked after children are children who are either in the care of a local authority or being provided with accommodation by a local authority in the exercise of their social services functions, in accordance with section 22 of the Children Act (1989), at the time an application for a place is made.

All references to previously looked after children in this policy mean such children who were adopted (or subject to child arrangement orders or special guardianship orders) immediately following having been looked after and those children who appear (to the admissions authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.”

71. The local authority states:

“the arrangements are not clear for parents to understand how this is defined including how this is considered for those children in state care outside of England.”

72. The arrangements use much of the wording taken directly from paragraph 1.7 of the Code and of 15 within the notes in the Code pertaining to paragraph 1.7, but do not contain the full content of those notes.

73. I note that the local authority’s own admission arrangements are much briefer within the oversubscription criteria, stating simply:

“Looked after children and previously looked after children, including those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.”

74. The local authority gives the full definition and explanation in its table “Definitions and Key Terms” at the end of its admission arrangements. Such a mechanism does provide full details for those parents seeking further clarification whilst keeping the main points of the arrangements, in this instance the oversubscription criteria, short and easy for parents to understand.

75. Whilst I think that the trust has made good endeavours to distil the key points of paragraph 1.7 of the Code, the result is both longer within the body of the oversubscription criteria and yet lacking the full definition as raised by the local authority.

76. Due to the absence of the full definitions as per notes 15-19 of the Code, pertaining to paragraph 1.7, I uphold the local authority’s objection on this matter.

77. I note with thanks the trust’s response and their proposal to add the text from the notes in the Code (as above) to the arrangements.

78. At 5.1(ii) the arrangements state:

**“Siblings of current pupils who were on roll at the point of admission,** for the purposes of this policy, are defined as children living permanently at the same address as a child already attending the academy and either have one or both parents in common, are related by a parent’s marriage or civil partnership, are adopted or fostered by a common parent, or are related children who live at the same address whose parents live as partners. These conditions must be met at the time of their admission (including for children in the sixth form).”

79. The local authority considers that:

“this criterion is unclear and applies conditionality” as “the parental situation may change by the time the child is admitted to school.”

Where such a change of circumstances has occurred, it may be that siblings no longer reside at the same address as each other.

80. My concern with the current wording is that parents will find it confusing to read “Siblings of current pupils who were on roll at the point of admission”. The arrangements need to be clear on whether the sibling must be on roll at the school at the time of application for the new pupil, or whether they must be on roll at the time that the new pupil will be admitted, or both.

81. I therefore uphold the local authority’s objection that this criterion is unclear.

82. It is noted that applications for school places in the normal round take place many months before admission, therefore it is possible that there will be changes in circumstance for those making applications.

83. I note with thanks the trust’s response and proposal to seek appropriate wording from the local authority.

84. At 5.1(iv) the arrangements state:

**“Children who attend an ATT Primary Academy** at the time of application to join Year 7 in an ATT Secondary Academy, who are in the same geographical catchment area within the same local authority...”

85. The local authority argues that this criterion is:

“unclear and potentially misleading for parents. The arrangements refer to a geographical catchment area giving priority for a school place but does not define the area or provide a link to a search function where parents can find information about the catchment area. This would mean parents would be required to search additional websites to obtain this information about the catchment area. This is not helpful for parents in understanding how, or if, their child would meet that criterion.”

86. All information needed for a parent to ascertain their child’s eligibility under this criterion must be available within the admission arrangements, be that via links provided or within appendices at the end of the document. To necessitate parents having to gather information via other websites and sources is clearly not in keeping with the Code at paragraph 14, which states that:

“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

87. I uphold the local authority’s objection on this point.

88. At 5.1(v) the arrangements state:

**“other children by catchment area** (as defined by Warwickshire County Council) and then by distance from the academy...”

89. As stated in paragraph 20 above, the trust has opted to incorporate the arrangements for all of its individual academies within a single document.

90. It should be noted that while this element is contained within the admission arrangements pertaining to the school, this particular clause is of no direct relevance to the Dukeries academy. I shall therefore not make a judgement on this element within this determination.

91. The arrangements state that priority will be given within the catchment area (for Queen Elizabeth Academy), and to those children living nearest to the academy (for all the other schools in the trust):

“measured using Ordnance Survey data to plot an address (employing the measuring system used by the local authority in which the academy is situated). Distances are measured as the crow flies (a straight-line distance) from the child’s property address point to either the academy’s main reception OR the academy address point in line with the relevant local authority policy.”

92. The local authority objects that:

“The arrangements also are unclear about the measuring point for distance from an academy. There are two options listed, either the academy’s main reception or the academy address point in line with the relevant local authority policy. It would be helpful to summarise the mechanism used in each local authority to enable parents to understand clearly how the distance for their preferred school would be calculated.”

93. The Code states at paragraph 1.13:

“Admissions authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured.”

94. I therefore uphold the local authority’s objection that the arrangements are unclear for parents and that a summary of the mechanism used in each local authority should be provided to enable parents to understand easily how the distance to their preferred school would be calculated.

95. I note with thanks the trust’s response and further proposed revision which will state:

“...other children by distance from the academy, with priority for admission given to children who live nearest to the academy as measured by straight-line distance from the child’s property address point to the academy’s property address point.”

96. At 6.3 the arrangements state:

“Where a child lives with parents that have shared responsibility for the child, the address of the child is the home at which the child resides for the majority of the school week.”

97. The local authority:

“considers that the information is unclear and does not clarify for parents how the academy would determine where a child lives for the majority of a school week or in cases where there is shared responsibility.”

98. The Code states at paragraph 1.13:

“This **must** include making clear how the ‘home’ address will be determined...This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.”

99. While the current wording of the arrangements would be clear where the situation was straightforward, it is insufficient for situations where arrangements for childcare are more complex. I therefore uphold the local authority’s objection that the current wording is unclear and does not provide clarity for parents as to how the school would decide at which address the child resides for the majority of a school week.

100. I note with thanks the trust’s response and proposal to seek appropriate wording from the local authority.

101. At 6.4 the arrangements state at:

“When considering applications from children of UK service personnel, the unit postal address or quartering area address will be used, provided that the application is accompanied by an Assignment Order that declares a relocation date and the address.”

102. However, the information in appendix 4 (referred to in 5.3 of the arrangements) is different from what is stated in 6.4. Appendix 4 is taken directly from 2.21 of the Code and is, therefore, fully compliant.

103. I uphold the local authority's view that the difference between 6.4 and appendix 4 is potentially unclear for families and therefore that 6.4 needs to accurately reflect the contents of appendix 4.

104. At 8.1 the arrangements state at:

"If your child has not been allocated a place at one of our academies, their name will be added to our waiting list until at least 31<sup>st</sup> December of each year. When additional applications are received the list will be rewritten using the published criteria for oversubscription. If a place at the academy becomes available children will be admitted from the waiting list (see Section 9)."

105. The local authority considers that this is not clear and says:

"...Whilst admission authorities must hold a waiting list until 31 December each year, the arrangements do not make it clear for parents the point at which the waiting list will cease and is not consistent with information contained in 9.2."

At 9.2 the arrangements state:

"The waiting list for the normal admissions year group (relevant age group) will be cleared by the end of the first week of the spring term each year (or in the case of our academies in Suffolk, by 31 December). The waiting list for all remaining year groups will be cleared at the end of June each year. If you would like your child to remain on the waiting list after these dates, you will need to reapply for a place at the academy."

106. The local authority feels that 9.2 could be unclear to parents with children in multiple year groups. In addition, they state that:

"the arrangements say after the waiting list has closed parents must reapply but there is no information to clarify for parents how repeat applications would be considered if a parent submitted an application for the same year group in the same admission year. It would also be helpful to clarify the arrangements for appeal in these cases and the limited grounds on when a second appeal can be lodged."

107. The Code states at 2.15:

"Each admission authority **must** maintain a clear, fair and objective waiting list until at least **31 December** of each school 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. Priority **must not** be given to children based on the date their application was received, or their name was added to the list. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol **must** take precedence over those on a waiting list."



108. I agree with the local authority's points in relation to both 8.1 and 9.2. It is desirable for the necessary detail relating to academies in differing local authorities to be included within an appendix at the end of the document. This would ensure that parents can get a clear picture within a single document of the exact arrangements pertaining to the school at which they are seeking a place for their child/children. By attempting to encompass the variations in local authority practices across the trust within a single document, without providing critical information, the admission authority is failing to comply with paragraph 14 of the Code and the arrangements are not easy for parents to understand.

109. Additional detail does need to be included to set out how repeat applications to the same year group in the same admission year would be considered. Further clarification on the arrangements for appeal in these cases should also be included, along with the narrow criteria for lodging a second appeal.

110. I therefore uphold this element of the local authority's objection.

111. At 9.4 the arrangements state:

"Children allocated a place at the academy in accordance with the Fair Access Protocol (see 9.5) will take priority over children on the waiting list."

At 9.5 they go on to say:

"The Fair Access Protocol is an agreement that allows hard-to-place children, for example, those that have been permanently excluded, to be given a place before any oversubscription criteria are applied and before anyone is considered from the waiting list. Such children are allocated places across all the academies within a local area."

112. The local authority states that:

"The information around fair access does not appear to be in line with the School Admissions Code. The arrangements state that a protocol is an agreement for children to be given a place before any oversubscription criteria are applied and before anyone is considered from the waiting list."

113. The Code states at 3.18:

"Eligibility for the Fair Access Protocol does not limit a parent's right to make an in-year application to any school for their child. Admission authorities **must** process these applications in accordance with their usual in-year admission procedures...They **must not** refuse to admit such children on the basis that they may be eligible to be placed via the Fair Access Protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair access Protocol."

114. I uphold the local authority's objection to the wording used within the arrangements. The arrangements must be in line with the Code and make it clear that in-year applications

for children eligible to be considered under the Fair Access Protocol will be processed in accordance with their usual in-year admission procedures.

115. Note 84 of the Code should be noted:

“In most cases use of the Fair Access Protocol should be unnecessary for a previously looked after child. We would expect the local authority to aim to secure a school place particularly promptly for a previously looked after child and for admission authority to cooperate with this. LAC and PLAC via the FAP.”

116. At 11.3 the arrangements state:

“Applications for Year 12 can be made using the CAF, although you may also apply directly to the academy by contacting the relevant Head of Sixth Form, who will provide details on how to apply.”

117. The local authority states that:

“It would be clearer for parents if information was contained directly within the arrangements about how they can apply for a year 12 place. Parents/students would need to review each individual academy to find out the process for applying for a year 12 place.”

118. The Code states at 2.6:

“Children and their parents applying for sixth form places may use the CAF, although if they are already on roll, they are not required to do so in order to transfer into year 12. Admission authorities can, however, set academic entry criteria for their sixth forms, which **must** be the same for both external and internal places. School sixth form arrangements for external applicants **must** be consulted upon, determined, and published in accordance with the same timetable as for admission arrangements for other entry points. As with other points of entry to schools, highest priority in oversubscription criteria for sixth form places **must** be given to looked after children and previously looked after children who meet the academic entry criteria. As stated previously...any meetings held to discuss options and courses **must not** form part of the decision process on whether to offer a place.”

119. The arrangements do not state anywhere what the minimum entry requirements are that are referred to in 4.3. These requirements must be the same for both internal and external students. As raised by the local authority, external applicants would have to look at individual academy’s websites in order to find the necessary information to make an application, even if they were to do this via the CAF. Therefore, the process of application is not clear for either internal or external candidates.

120. I, therefore, uphold the local authority’s objection to this element of the arrangements.

121. At 11.6 the arrangements state:

“Applications for Admission Outside a Child’s Normal Age Group. It is expected that children will normally be educated within their chronological year group, However, parents or carers can make a request to the academy in writing for a place outside their normal age group. This will need to include, where relevant, any supporting evidence. We will make decisions based on the circumstances of each case and in the best interests of the child concerned, in line with the School Admissions Code. This will take into account the views of the Principal. We will write to the parent or carer with the outcome including the reasons for the decision. If the request is refused, details of how to complain to the academy will be provided.”

122. The local authority has stated that:

“The arrangements for applications outside the normal age group are not clear regarding how parents can make these requests.”

123. The Code states in paragraph 2.18 that:

“Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”

It goes on to say in paragraph 2.19 that:

“Admission authorities **must** make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent’s views; information about the child’s academic, social, and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. They **must** also take into account the views of the head teacher of the school concerned.”

124. The arrangements do not set out the process for parents wishing to apply for a place for their child/children outside their normal age group. They do not state to whom the request should be made at the school, the information required to support their request or the timescale in which the decision will be made. Nor is there any mention that the views of the parent will be taken into account.

125. I uphold the local authority’s objection to this element of the arrangements.

126. In Appendix 1 the arrangements provide postal addresses for each academy. The local authority appears to be objecting to the lack of contact details for the relevant local authority for each school within the trust.

127. The trust has responded to say that it can include these links earlier within the arrangements in order to “support parents finding the relevant information.”

128. I agree that this additional information will be helpful to the parents and welcome the trust’s response in so far as this will help the arrangements to comply with paragraph 14 of the Code, I therefore uphold this element of the objection.

129. Appendix 3 within the arrangements is the in-year admissions form. The local authority has objected to some elements of this stating:

“The form requests information about whether the child will remain at their current school if the application is unsuccessful, but NCC considers this to be irrelevant to the decision-making process. In addition, the form asks whether the child would be added to the waiting list if unsuccessful, but the admission arrangements already outline that if an application is unsuccessful a child’s name would be placed on the waiting list.”

130. At 2.26 the Code states:

“...own admission authorities...**must** set out how parents can apply for a school place, and, where they manage their own in-year admissions, provide a suitable application form for parents to complete...”

131. While Appendix 3 does constitute an application form, I agree with the local authority’s view that the two elements referred to are not necessary and could, therefore, be construed as unclear and, consequently, in contravention of paragraph 14 of the Code. I, therefore, uphold this element of the local authority’s objection.

132. I note with thanks that the trust has agreed to remove the two questions from the form.

133. The local authority is objecting to Section 2 of Appendix 3 of the arrangements relating to specific criteria. The local authority states that:

“EHCP – the application form should make it clear that if the child has an EHCP they should be directed to the relevant service within the local authority to make a request for admission or transfer to school as this is outside the normal admissions process.”

134. I agree that this could be construed as unclear and therefore in contravention of paragraph 14 of the Code. I, therefore, uphold this element of the local authority’s objection.

135. I note with thanks the trust’s response to this:

“We are happy to add that if they answer “yes” they need to contact the relevant LA admissions service to make a request for an admission/transfer to the school and provide a link.”

136. The local authority is objecting to Section 3 of Appendix 3 of the arrangements relating to LAC and PLAC children stating:

“LAC/PLAC – parents are asked to give details, but it is not clear what information is being requested. It would be helpful to parents if further information about this criterion was included on the form, or as a definition. The question around a social worker should only be relevant if parents have answered yes to the questions regarding LAC/PLAC.”

137. I agree that this could be construed as unclear and therefore in contravention of paragraph 14 of the Code. I, therefore, uphold this element of the local authority’s objection.

138. I note with thanks the trust's offer to add the definition relating to LAC and PLAC children as at paragraph 1.7 of the Code and the notes pertaining to that paragraph.

139. The local authority is objecting to Section 3 of Appendix 3 of the arrangements relating to additional information sought. The local authority states that:

"The application form requests specific information regarding year 9,10 and 11. The Code is clear that admission authorities must not place any condition on the consideration of any application other than those in the oversubscription criteria. The application form should make it clear that information about current course options etc do not form part of the decision-making process."

140. In paragraph 1.9 of the Code it states that:

"It is for admission authorities to formulate their admission arrangements but they **must not**:

a) Place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements."

The Code also states at paragraph 2.28 that:

"...admission authorities **must not** refuse to admit a child solely because:

c) they have followed a different curriculum at their previous school"

141. I uphold the local authority's objection on this matter.

142. I note with thanks the trust's response and offer to remove the section in question.

## Summary of Findings

143. In relation to the objection to the consultation on the 2025 admissions arrangements for the school, it is demonstrable that the trust did not provide a copy of the full arrangements to the local authority in a timely manner, significantly reducing the period available for the local authority to scrutinise the arrangements. This was in clear contravention of paragraph 1.48 of the Code and I, therefore, uphold this element of the objection. It was not possible to verify the local authority's assertion that the arrangements were not available on the trust's and school's website for the prescribed period of time and, therefore, I do not uphold that element of the objection.

144. The second part of the objection was to the lack of a clear PAN for Y12. The trust has acknowledged that the determined arrangements refer to capacity for the sixth form rather than the PAN as required by the Code and has undertaken to rectify this. I uphold the objection on this point as it is in clear contravention of paragraph 1.2 of the Code.

145. The third part of the objection was to the reduction in PAN for Y7 from 180 to 168. The forecast data provided by the local authority strongly indicates a shortage of school places across the planning area for all of the next five years except 2028. This is true even

with a PAN of 180 and the current determined PAN of 168 would exacerbate the situation and lead to increased parental frustration. The local authority has a statutory duty to ensure a sufficiency of places within its area and this was the foundation of their objection. I uphold the objection to the reduction in PAN from 180 to 168. I note from correspondence with the trust that they have now reviewed their position and wish to revert to a PAN of 180.

146. The fourth part of the objection was to a lack of clarity in numerous elements of the arrangements which I have covered in detail above, referring there to the relevant points within the Code. While the trust has clearly made good endeavours to comply with the Code, attempting to cover the admission arrangements for 20 schools across multiple local authority areas creates complexities which have led to issues of clarity. All admission authorities are required by paragraph 14 of the Code to ensure that their arrangements are clear and easy for parents to understand and I have, therefore, upheld these objections.

147. I note here that the trust has engaged very positively with all of the points raised by the local authority and is committed to working with the local authority to ensure that the arrangements going forward are fully compliant with the requirements of the Code and are clear for parents.

## **Determination**

148. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2025 determined by Academy Transformation Trust for the Dukeries Academy, Newark, Nottinghamshire.

149. 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.

150. 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: 21 May 2024

Signed:

Schools Adjudicator: Tess Gale