



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4298

Objector: A member of the public

Admission authority: The Governing Board of Chichester Free School

Date of decision: 25 July 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 the Governing Board of Chichester Free School for Chichester Free School, Chichester, West Sussex.

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

The admission authority for the school has revised the school's admission arrangements for September 2025 and need take no further action in response to this determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection was referred to the adjudicator by a member of the public, (the objector), about the admission arrangements (the arrangements) for Chichester Free School (the school), a co-educational non-selective school for pupils aged 4 – 16 for September 2025.
2. The objection was that the arrangements did not contain details of a procedure which the parents of summer born children could access to apply for a place outside their child's normal year group.

3. The local authority (LA) for the area in which the school is located is West Sussex County Council. The LA is a party to this objection. Other parties to the objection are the objector, the school's governing board and Sussex Learning Trust.

Jurisdiction

4. The terms of the academy agreement between the multi-academy trust (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 foundation and voluntary schools. These arrangements were determined by the governing board, (which has delegated authority from the admission authority to determine the admission arrangements for the school), on that basis. The objector submitted their objection to these determined arrangements on 10 April 2024. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that 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 governing board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 10 April 2024; and
- d. Information publicly available on the websites of the school, the LA and the Department for Education, including information on the DfE's website 'Get Information About Schools' (GIAS)

The Objection

7. The objector was concerned that the school's admission arrangements omitted any reference to a procedure for parents to be able to make a request for their summer born child to be admitted outside the normal year group, which they asserted was not in compliance with the requirements in paragraphs 2.18 – 2.20 of the Code. I have set these paragraphs out below. The substantive requirement referred to by the objector is in paragraph 2.18, which I have highlighted in bold for emphasis.

"2.18 Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that

they are admitted out of their normal age group – to reception rather than year 1. **Admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group.**

2.19 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. When informing a parent of their decision on the year group the child should be admitted to, the admission authority must set out clearly the reasons for their decision.

2.20 Where an admission authority agrees to a parent's request for their child to be admitted out of their normal age group and, as a consequence of that decision, the child will be admitted to a relevant age group (i.e. the age group to which pupils are normally admitted to the school) the local authority and admission authority must process the application as part of the main admissions round, unless the parental request is made too late for this to be possible, and on the basis of their determined admission arrangements only, including the application of oversubscription criteria where applicable. They must not give the application lower priority on the basis that the child is being admitted out of their normal age group. Parents have a statutory right to appeal against the refusal of a place at a school for which they have applied. This right does not apply if they are offered a place at the school, but it is not in their preferred age group”.

Other Matters

8. There were a number of other matters in the arrangements which appeared not to comply with the legal requirements applicable to admission arrangements. I have listed them below at paragraph 15, along with my reasons for considering these matters to be non-compliant.

Background

9. As mentioned above, the school is a non-selective coeducational all-through school for pupils aged 4 – 16 years. The GIAS website says that the school is for pupils aged 4 – 19 years. However, when I looked on the school's website I was unable to locate a sixth form curriculum or any admission arrangements. The school is part of Sussex Learning Trust, which is a multi-academy trust comprising six academy schools. It was rated as a Good school by Ofsted following its most recent inspection in May 2024.

10. It is usual at this point in a determination to list the school's oversubscription criteria and other relevant provisions in the admission arrangements. However, there is little point

in my doing so as the school's admission arrangements have been revised following receipt of the objections and further communications from the case manager.

Consideration of Case

The Objection

11. The school's response to the objection and to the Jurisdiction and Information Paper which was sent to them outlining my concerns about other aspects of the arrangements was as follows: "Many thanks for your email and the report highlighting the concerns raised. We have reviewed your concerns and accept all points made. We are therefore in the process of altering our admissions policy for 2025-2026". The school sent a draft amended admissions policy to be applied to all Academies in Sussex Learning Trust, including Chichester Free School and draft revised admission arrangements for the school. The draft arrangements were due to be formally revised by the Board of Trustees and the Local Governing Board in May.

12. I located the school's 2025 admission arrangements on the website on 24 July 2024 and they have indeed been revised to address the points raised by the objector and the other matters which I had raised. Schools Adjudicators have no jurisdiction to require admission authorities to make particular revisions to their admission arrangements in order to make the arrangements Code compliant, so I was not able to comment upon the drafts when they were sent to me. I will say, however, that I appreciate the efforts of the school and the trust to be proactive in taking steps to address the concerns raised.

13. Under the requirements of section 88H of the Act (which sets out the ability to make objections to schools' admission arrangements), once the Schools Adjudicator receives a valid objection he/she is obliged to consider it and either uphold or not uphold the objection. My jurisdiction therefore is to consider the school's admission arrangements for September 2025, as determined, even though I am aware that the arrangements currently in operation are substantially different. This determination is, therefore, largely redundant.

14. Paragraph 2.18 of the Code states that admission authorities must make clear in their arrangements that parents can apply for their child to be admitted outside of the normal age group, and paragraph 2.17 of the Code provides that parents have a right for their child to defer entry to Reception or attend part-time until the child reaches compulsory school age. I was unable to find any reference in the school's 2025 admission arrangements as originally determined to a process for requesting admission out of the normal age group. Whilst there was a reference to deferred and part-time entry to Reception, the arrangements did not make clear that each is a right or explain the meaning of the phrase "compulsory school age". I am therefore obliged to uphold the objection.

Other Matters

15. There were a number of other matters in the arrangements which appeared not to comply with the legal requirements relating to admissions. I drew these to the attention of

the school. As above, the arrangements have now been revised to address these matters, so I will simply list them:

- a. The arrangements stated that “Any applications received after the closing date of 15 January 2025 for primary and 31 October 2024 for secondary will be considered as late applications”. However, they did not explain the consequences of an application being late. It would not have been clear to parents whether late applicants were treated differently to those who apply by the required deadline and, if so, in what way. Paragraph 14 of the Code provides 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 arrangements were not sufficiently clear on this point.
- b. The arrangements stated: “In addition to the right to appeal, unsuccessful applicants can join the Waiting List which will operate until the 31st August. After that date, parents will need to reapply to remain on the waiting list for an in-year admission”. Paragraph 2.15 of the Code says that: “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”. I was unsure whether the 31 August date referred to 31 August 2026, which would fulfil the requirements of paragraph 2.15 and indeed would go beyond those requirements. The date was unclear, and the arrangements should also have made clear to parents that each added child will require the list to be ranked again in line with the published oversubscription criteria.
- c. The arrangements contained the heading “Children with Statements of Special Educational Needs” and the following text: “CFS will admit any pupil with an Educational Health Care Plan (EHCP) where CFS is named on the EHCP”. Children no longer can have Statements of Special Educational Needs, so this reference needed to be removed. Also, I explained that it is helpful for parents to understand that the consequence of the school being obliged to admit children with an EHCP is that fewer places will be available to applicants admitted via the school’s determined admission arrangements.
- d. The arrangements said: “Evidence is required to support applications for looked after children or previously looked after children who ceased to be so because they were adopted (or become subject to a residency order or special guardianship order). Applications for looked after children should be made by the relevant social worker. Applications for children who are adopted should be supported by a copy of the adoption order and the new birth certificate. Applications for children who are subject to a residency order or special guardianship order should be supported by a letter from social services confirming the details of the arrangements for the child”.

“Residence Orders” no longer exist, so this reference needed to be replaced with a reference to a Child Arrangement Order. Also, in my view, it is not open to an admission authority to impose a requirement that applications for looked after children must be made by a social worker. An application for a school place can be made by any person with parental responsibility, which may include one or both parents (unless the extent to which the parent can exercise parental responsibility is limited by a court order). Where a looked after child is accommodated under section 20 of the Children Act 1989, the local authority does not have parental responsibility for that child and would have no authority to apply for a school place unless doing so at the request, and with the permission, of a parent. Child Arrangement Orders (as was the case with Residence Orders) can be obtained in divorce proceedings without the knowledge or involvement of social services. If a child has a Residence Order or Child Arrangements Order, it would be appropriate, in my view, to ask for a copy of the Order if there is some reason to doubt the veracity of the address provided.

- e. I was unable to find any provision in the arrangements for determining the home address of a child whose parents have shared responsibility for the child following the breakdown of their relationship and the child lives for part of the week with each parent.

Determination

16. 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 the Governing Board of Chichester Free School for Chichester Free School, Chichester, West Sussex.

17. I also considered the arrangements in accordance with section 88I(5) and found there were other matters which did not conform with the requirements relating to admission arrangements in the ways set out in this determination.

18. The admission authority for the school has revised the school’s admission arrangements for September 2025 and need take no further action in response to this determination.

Dated: 25 July 2025

Signed:

Schools Adjudicator: Dr Marisa Vallely