

Sixth form admissions and over-offering

Following Ofqual's announcement that GCSE students will be able to take the higher of their Centre Assessed Grades or the standardised grade, sixth forms that made more external offers than they have places have been contacting us about what they can do where they would have many more students in the sixth form than they can accommodate.

20 January 2021

Please note: the information contained in this legal updates was correct as 11 January 2021.

Following the announcement that GCSE and A-Level students will not have to sit exams in the summer and will instead be awarded teacher-assessed grades, sixth form offers may once again be affected. Last year many sixth forms made more external offers than they had places for and were concerned about what they could do where they would have many more students in the sixth form than they can accommodate.

The starting point for consideration of this issue must be the School Admissions Code 2014. Admission authorities must act in accordance with the Code and, as such, must make allocation decisions on the basis of their published admission arrangements (paragraph 2.7 of the Code). The approach of the school given the current situation will depend on the wording of the admissions policy and the correspondence to date with prospective external students/parents.

Where an applicant, whether internal or external, has not met the entry criteria, the admission authority must refuse admission to the sixth form. The only exception to this approach would be where the admission arrangements expressly permits consideration of exceptional or other circumstances to allow entry criteria to be varied in individual cases.

For sixth form admissions, internal applicants that meet the entry criteria and want to progress to the sixth form, must be offered a place. For external applicants, the sixth form will have a published admission number for the minimum number of places that are offered for external students that meet the minimum entry criteria. Many sixth forms, however, make more conditional offers than they have places on the usual assumption that not all students will actually meet the entry criteria. With teacher-assessed grades often being higher than the grades students may have been awarded in examinations, it means sixth forms may once again have many more students meeting the entry criteria than they can physically accommodate.

It may be possible if there is suitable wording in the admission arrangements to subsequently explain to students/parents that the oversubscription criteria will be used to determine places to students given the large number of students meeting the entry criteria. There would in our view need to be something explicit in the arrangements/correspondence that made clear this is what would occur. If this was the case, clear correspondence would need sending to prospective parents/parents to let them know this is what was going to happen and a date by which final places would be confirmed.

An alternative is to let prospective external students know that although they have a place in the sixth form, their specific courses cannot be guaranteed. Whilst the Admissions Code 2014 covers places in the sixth form, it does not cover the courses a student can study, which is an internal decision. If a prospective student was not happy with the remaining courses on offer, it would be their choice to withdraw and find a place at another institution. This distinction is however unlikely to work where the sixth form is very heavily over-offered and where there would in reality be no courses that could be offered to some students as this is in a rejection in all but name. The sixth form would also have to consider how it allocated places to courses to different students – for example, would this be on a first-come first-served basis? We are aware that some conditional offer letters are explicit about the courses that are being offered to the student and again this option may not be suitable in those circumstances.

Finally, another option may be to withdraw places to the sixth form under the Admissions Code. Withdrawals of places can only be made in specific circumstances, including where it has been offered in error. Again, whether this is going to apply will be fact specific and based on whether an error in the admissions process has been made.

Any student that is turned down from the sixth form will need to be offered the opportunity to appeal the decision to an independent appeals panel in the usual way. If you need specific advice on sixth form admissions, please contact [Richard](#) or [Philip](#).

This legal update was co-written by Education Partner [Richard Freeth](#) and Associate [Philip Wood](#).

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