



To:

Secretary of State for Education
C/O Sam Tingle
Free Schools Group
DfE
2 St Paul's Place
125 Norfolk Street
Sheffield
S1 2FJ

From:

The Wells Free School,
The Old Kent and Sussex
Hospital,
Mount Ephraim,
Tunbridge Wells,
TN4 8AT

16 December 2015

Dear Mr Tingle

**THE WELLS FREE SCHOOL: AMENDMENT OF ADMISSION ANNEX TO
FA TO RECOGNISE DEROGATION AGREED WITH THE SECRETARY OF
STATE**

I am authorised on behalf of the The Wells Free School to agree to the amendment of annex B to the funding agreement of The Wells Free School as set out in the schedule to this letter.

We agree with the Secretary of State that the change shall take effect from the date of this letter.

Yours sincerely

Jude O'Connor

Chair of Governors

Schedule

Annex B to the funding agreement signed and sealed on 02 August 2013 shall be amended and re-stated in the form set out below with effect from 16 December 2015.

Annex B

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE WELLS FREE SCHOOL

GENERAL

1. This Annex may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.
2. Except as provided in paragraphs 2A to 3 below The Academy Trust will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or legislation to "admission authorities" shall be deemed to be references to the governing body of the Academy Trust.

2A The Academy Trust is permitted by the Secretary of State to determine admission arrangements (subject to consultation in accordance with the School Admissions Code) that give priority for admission (but not above looked after children and previously looked after children) to children whose parents have permitted Founders status. The Academy Trust should ensure that they grant Founders status according to the requirements of Charity law, which permit special provision to be made for a small group of the general beneficiaries of the Charity providing that the greatest benefit is to the wider community. The Academy Trust should only grant Founders status to a parent or guardian whom the Academy has identified in its discretion as having genuinely played a material role in setting up the school and whose continued support and involvement is deemed by the Academy to be necessary in helping it establish itself in its early years for the benefit of the public as a whole.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Academy Trust will not participate in the co-ordinated admission arrangements operated by the LA for the first year of opening but will participate in such arrangements operated by the LA in subsequent years and the local Fair Access Protocol.
4. Notwithstanding any provision in this Annex, the Secretary of State may:

- (a) direct the Academy Trust to admit a named pupil to The Wells Free School on application from a LA. This will include complying with a School Attendance Order¹. Before doing so the Secretary of State will consult the Academy Trust.
- (b) direct the Academy Trust to admit a named pupil to The Wells Free School if the Academy Trust has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.
- (c) direct the Academy Trust to amend its admission arrangements where they fail to comply with the School Admissions Code or the Admission Appeals Code.

5. The Academy Trust shall ensure that parents and 'relevant children'² will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Academy Trust. The Independent Appeal Panel will be independent of the Academy Trust. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Academy and the LA in which the Academy is situated in reaching a decision.

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will

¹ Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

² relevant children' means:

- a) in the case of appeals for entry to a sixth form, the child, and;
- b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

- a. subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;
- b. adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group³. The Academy will consult on its admission arrangements and determine them in line with the requirements within the School Admissions Code.

11. The Academy Trust must make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the Schools Adjudicator.

12. A determination of an objection by the Schools Adjudicator will be binding upon the Academy.

³ 'Relevant age group' means 'normal point of admission to the school: for example, year R, Year7 and Year 12.'

