



From the Parliamentary  
Under Secretary of State  
for Work and Pensions

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**Baroness Hollis of Heigham  
House of Lords  
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**28 January 2010**

*Dear Patricia*

**During the Child Poverty Bill Committee on 27 January, you asked about academies admission policies in relation to looked after children.**

**Children in care are among the most vulnerable children in society and we therefore require all schools, including academies, to give them the highest priority for admission. The only circumstances in which an Academy could refuse to admit a looked-after child are the same narrow circumstances in which a maintained school would be permitted to refuse a looked after child:**

- (1) Where the school has already admitted up to its admission number and is full.**

**In such a situation the corporate parent can appeal the refusal to admit before an independent appeal panel.**

**If the child is refused a place, the local authority can also ask the Secretary of State to direct the Academy to admit the child. This mirrors the situation for maintained schools, where local authorities can direct a maintained school to admit a looked-after child and, if the school appeals, the case, it is decided by the School's Adjudicator.**

- (2) Where the child is 'challenging' and the circumstances in clause 3.32 of the Admissions Code apply.**

**The Admissions Code allows both maintained schools and academies with a high proportion of challenging pupils on roll to refuse to admit further challenging pupils if the application is made outside the normal admission round and if the school falls into one**

or more of the following categories:

- a) a school in special measures or one which has recently come out of them (within the last two years);
- b) a school which has been identified by Ofsted as requiring significant improvement and therefore given 'notice to improve';
- c) a school which is subject to a formal warning notice by the local authority;
- d) where it is a Fresh Start school or Academy open for less than two years; or
- e) where it is a secondary school where fewer than 20 per cent of children are achieving 5 or more A\*-C GCSEs including English and mathematics, or a primary school where fewer than 55 per cent of pupils achieve Level 4 or above at Key Stage 2 in both English and mathematics for four or more consecutive years.

If the local authority or parent disputes the refusal to admit, the Secretary of State (or from April, the Young People's Learning Academy) considers the case and can direct the Academy to admit the child.

To sum up, Academies are bound by their funding agreements to comply with the provisions of the School Admissions Code. Neither the Code nor their funding agreements include a three year derogation from the requirement to give looked-after children priority for admission.

I hope this reply is helpful to you. I have copied this letter to all peers who spoke during Committee and will arrange a copy to be placed in the House Library

*Yours sincerely*  
*B.M.*

**Bill McKenzie**