



DETERMINATION

Case reference:	ADA3140
Referrer:	A parent
Admission Authority:	The Academy Trust for Westlea Primary School, Swindon
Date of decision:	12 July 2016

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined for Westlea Primary School for admissions in September 2017.

I have also considered the arrangements in accordance with section 88I(5). I determine that 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 this 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 a parent (the objector) about the 2017 admission arrangements (the arrangements) for Westlea Primary School (the school), an academy school for boys and girls aged 4 to 11 years in Swindon. The objection relates to whether or not the school's arrangements comply with the Code with respect to paragraph 2.16, the admission of children below compulsory school age and deferred entry; and paragraph 2.17, the admission of children outside their normal age group.
2. The school is located in the area of Swindon Borough Council (the local authority) and therefore the local authority is a party to this objection.

Jurisdiction

3. The terms of the academy agreement between the academy trust (the trust) and the Secretary of State for Education require that the admissions policy and arrangements for this academy school are in accordance with admissions law as it applies to maintained schools. The arrangements were

determined on 23 March 2016 by the governing body on behalf of the trust, which is the admission authority for the school, on that basis.

4. The objection was received on 9 May 2016. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that the objectors' concerns about the admission arrangements are 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. the objector's form of objection dated 9 May 2016 and subsequent correspondence;
 - b. the response to the objection from the school, supporting documents and further correspondence;
 - c. the local authority's response to the objection, supporting documents and subsequent correspondence;
 - d. the 2016 composite prospectus for admissions to schools downloaded from the local authority's website;
 - e. the funding agreement for the school; and
 - f. a copy of the minutes of the governing body's meeting of 23 March 2016 at which the arrangements were determined.

The Objection

7. The objection relates to whether or not the school's arrangements for admissions in September 2017 comply with the Code with respect to paragraph 2.16, the admission of children below compulsory school age and deferred entry; and paragraph 2.17, the admission of children outside their normal age group.
8. The objection also concerned the application of the 2016 arrangements to the objector's child. Neither the 2016 arrangements nor the application of arrangements to an individual child for any year is within my jurisdiction and I have not, therefore, considered these matters further.

Other Matters

9. Having reviewed the arrangements as a whole, I noted that some other aspects appeared not to conform with the requirements relating to admissions. The aspects that appeared not to comply with the Code (relevant paragraph in brackets) are:
 - the determination of the arrangements after the deadline (1.46);
 - the lack of public consultation before changes were made to the arrangements (1.42 to 1.45); and

- the reference to children with a statement of special educational needs (statement of SEN) or education, health and care plan (EHC plan) appears to be in the oversubscription criterion (1.6).

Background

10. Westlea Primary School became an academy for boys and girls aged 4 to 11 years on 1 November 2013, and it is part of the Link Collaborative Trust. The school has a published admission number (PAN) of 45 and a specialist resource provision catering for up to 10 pupils with physical disabilities. The funding agreement confirms it has a planned capacity of 351 pupils.

11. On its website, the school says its vision is *“to be an outstanding and vibrantly happy school, by providing a successful learning environment where all children develop as happy and caring individuals with the tolerance, respect and resilience to be the best they can be”*

12. The 2017 arrangements say that if there are more applications than the 45 places available in the reception year (Year R), then the oversubscription criteria, which I have summarised below, will be applied:

A child who has a statement of SEN or an EHC plan is required to be admitted to the school named on the child’s statement.

1. A looked after or previously looked after child;
2. Any child with a sibling at the school at the time of admission;
3. Any child living in the catchment area;
4. Any children living outside the catchment area.

The straight-line distance between home and school will be used to prioritise places if individual criteria are oversubscribed. In the event that the distance is the same, and the applications are otherwise equal, the final place will be decided by random allocation.

13. Admissions data was supplied by the local authority and was also available in its 2016 composite prospectus. I have summarised the data in the table below, and it can be seen that the school has been oversubscribed by parents choosing the school as their first preference for the last four years.

	2013	2014	2015	2016
Number of places available (the PAN)	45	45	45	45
First preferences	50	47	51	51
Children with a statement of SEN or EHC plan	0	0	0	0
Children looked after and previously looked after	0	0	0	1
Siblings	18	19	27	24
Catchment	17	21	18	20
Distance	10	5	0	0

Consideration of Case

14. The objection relates to whether or not the school's arrangements comply with the Code with respect to paragraph 2.16, the admission of children below compulsory school age and deferred entry; and paragraph 2.17, the admission of children outside their normal age group. The objector contends that the school has created a "blanket policy" which does not comply with the Code.
15. Paragraph 2.16 of the Code states that "*Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The [admission] authority **must** make it clear in their arrangements that, where they have offered a child a place [in Year R] at a school:*
- a) that child is entitled to a full-time place in the September following their fourth birthday;*
 - b) the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and*
 - c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age."*
16. The term "compulsory school age" is detailed further at footnote 49 to paragraph 2.16 which explains that "*a child reaches compulsory school age on the prescribed day following his or her fifth birthday (or on his or her fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August."*
17. The school said in its email of 30 June 2016 that it "*has supported children who have not started school in the September, due to not being SSA [statutory school age]. Westlea however, encourages the parents to send the children at the same time as all the other children, due to academic provision, socialisation and a desire that the children do not feel isolated due to different arrangements."* I have reviewed the 2017 determined arrangements and there is a very clear statement that "*Pupils will start school at Westlea Primary School age 4 in the September of the school year in which they reach their fifth birthday."* This statement conflicts with the mandatory information required by paragraph 2.16 which has not been included in the arrangements. I uphold this part of the objection.
18. Paragraph 2.17 of the Code states that "*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."*

19. The arrangements state that the school believes *“children thrive when educated as part of their peer group – we therefore do not allow admissions (in any school year), outside of a child’s natural peer group.”* In its response to the objection the school said that it *“knows that it is providing a supportive and nurturing environment where all children do well and progress is sound... Westlea will hear any parents concerns and work to resolve them, but the policy of our Academy is clear, that we do not admit out of year group, due to our educational beliefs, the expertise of the teachers, teaching assistants, and support staff. We are in a position to welcome, rather than refuse admission on the basis of expertise..., extensive knowledge and good/outstanding educational practice.”*
20. I have reviewed the arrangements and there is no mention at all of the mandatory information required by paragraph 2.17 concerning how parents may request admission for their child out of the normal age group. Irrespective of the quality of the provision and how supportive the school may be, I uphold this part of the objection because the Code is clear that the information required by paragraph 2.17 is mandatory and must be included in the arrangements, which it is not in this case.
21. I have also used my power under section 88I of the Act to consider the arrangements as a whole and whether they conform to the requirements relating to admissions. The first matter of consideration was the late determination of the arrangements on 23 March 2016. Regulation 17 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations (the regulations) and the Code at paragraph 1.46 require that the admission authority **must** determine the admission arrangements by 28 February in the determination year. The arrangements for entry in September 2017 were required to have been determined by 28 February 2016. The school will wish to ensure that it meets this requirement of the Code and the regulations in future years.
22. The local authority brought to my attention that changes had been made to the arrangements without the public consultation required by the Code at paragraphs 1.42 to 1.45. The arrangements for the previous admission round contained the mandatory information required by paragraphs 2.16 and 2.17 of the Code, but the mandatory information had been removed from the 2017 determined arrangements. In its email of 10 June 2016, the school said that the *“governors sought to clarify the wording and this was discussed and agreed at [the meeting] ... There was not a consultation period for this change. The Governors were under the impression that they were able to reword as appropriate.”*
23. The Code is clear at paragraph 15(b) that *“where changes are proposed to admission arrangements, the admission authority **must** first publicly consult on those arrangements”* and the requirements of such a consultation are detailed further in paragraphs 1.42 to 1.45. The school made changes to the arrangements without the public consultation beforehand which contravenes paragraphs 15(b) and 1.42 to 1.45 of the code.
24. The reference regarding children with a statement of SEN or EHC plan which names the school appears to be in the oversubscription criteria. As

the Code at paragraph 1.6 requires that all such children **must** be admitted, it may be helpful to parents to move this reference to the introductory paragraphs above the section related to oversubscription criterion.

Summary of Findings

25. The arrangements for admissions in September 2017 do not comply with paragraph 2.16 of the Code because the mandatory information regarding the admission of children below compulsory school age and deferred entry has not been included.
26. Furthermore, the arrangements do not comply with the Code because there is no mention of how parents may request admission for their child out of the normal age group, which is a mandatory requirement of paragraph 2.17.
27. For these reasons I uphold the objection to the 2017 admission arrangements for Westlea Primary School.
28. I have also identified other ways in which the arrangements do not comply with the requirements relating to admissions.

Determination

29. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined for Westlea Primary School for admissions in September 2017.
30. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
31. 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 this determination.

Dated: 12 July 2016

Signed:

Schools Adjudicator: Ms Cecilia Galloway