



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA 2873, ADA 2922 and ADA 3000

Objector: Three members of the public

Admission Authority: Lewisham Council

Date of decision: 7 August 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold these objections to the parts within my jurisdiction of the admission arrangements for community schools determined by Lewisham Council for admissions in September 2016.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), objections have been referred to the Adjudicator by three members of the public (the objectors) about the determined arrangements for admissions in September 2016 (the arrangements) for community primary schools in Lewisham. The arrangements were determined on 25 March 2015 by Lewisham Council, the local authority, which is the admission authority for community schools in the borough. All three objections concern the admission of summer born children out of their normal age group, and whether or not the arrangements comply with the School Admissions Code (the Code).

Jurisdiction

2. The first objection (ADA2873) to the arrangements was submitted on 18 May 2015, and the second (ADA2922) and third (ADA3000) were submitted on 27 and 29 June 2015 respectively. All three objectors wished to remain anonymous, and their objections were allowable under Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012 because each objector had provided his/her name and address to the adjudicator. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider them.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the Code.

4. The documents I have considered in reaching my decision include:
 - a. the form of objection of 18 May 2015 from the first objector and further comments on 30 June 2015;
 - b. the “Determined Admissions Policy 2016-17” downloaded from the local authority’s website;
 - c. the local authority’s response to the objection on 12 June 2015 including a hyperlink to the “Starting School In Lewisham” booklet for 2015;
 - d. a copy of the minutes of the meeting of the Mayor and Cabinet of Lewisham Council on 25 March 2015 at which the arrangements were determined;
 - e. the form of objection from the second objector on 27 June 2015;
 - f. the form of objection from the third objector on 29 June 2015;
 - g. a copy of the document published in December 2014 by the Department for Education called “Advice on the admission of summer born children” (the DfE advice document); and
 - h. confirmation from the local authority on 16 July 2015 that its response to the first objection on 12 June 2015 also applies to the two other objections.

The Objection

5. The objections concern whether or not the arrangements determined for community primary schools in Lewisham comply with the Code with respect to the admission of summer born children outside their normal age group. As the concerns raised within the three objections are similar, I have considered them within a joint determination. I summarise below the aspects of the arrangements which the objectors maintain do not comply with the Code:

- i. the process for requesting the admission of summer born children out of their normal age group has not been specified clearly (paragraph 2.17);
- ii. requests for entry to Year R out of normal age group will only be considered in “*very exceptional circumstances*” (paragraph 2.17A) ;
- iii. applications requesting entry to reception out of normal age group “*may be supported by the child’s nursery/primary headteacher and/or an educational psychologist confirming that the child has learning delay or difficulty and their social maturity is well below that of his or her peers*” (paragraph 2.17A); and
- iv. no reference at all to the term “*summer born*”.

6. The objectors also cited concerns about the details of the procedure regarding requests for the admission of summer born children outside their normal age group, and the potential implications of such requests beyond the admission year. My role as adjudicator is to consider whether or not the arrangements comply with the Code and the law relating to admissions, but not the detail about matters of process. Therefore, in this determination I do not consider concerns about procedural detail in paragraphs 2.17A and 2.17B or the school years after admission.

Background

7. The local authority is the admission authority for the community primary schools in Lewisham. The arrangements for community primary schools in Lewisham are provided in Appendix B on page 3 of the “Determined Admissions Policy 2016-17” published on the local authority’s website, and the process for requesting admission out of the normal age group is provided in Appendix G on page 13 in the “later admission” section.

Consideration of Factors

8. 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.”* Footnote 49 to paragraph 2.16 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.”* The term “summer born” is defined in footnote 50 to paragraph 2.17 of the Code as *“all children born from 1 April to 31 August. These children reach compulsory school age on 31 August following their fifth birthday (or on their fifth birthday if it falls on 31 August).”* It follows that a summer born child will reach compulsory school age between five and 12 months after they could first have been admitted to the reception year (Year R).

9. Paragraph 2.17 of the Code applies where the parent of a summer born child wishes to defer the child’s admission to school until the September following the child’s fifth birthday, but wishes the child to start in Year R rather than in Year 1 which would be his/her normal age group by that time.

10. The first concern about the arrangements is that the objectors say the process for requesting the admission of summer born children out of their normal age group has not been specified clearly. The Code at paragraph 2.17 requires that *“admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”*

11. The “earlier” and “later” admissions sections of the arrangements include information about requests for admission out of normal age group. I also note that in its response of 12 June 2015 and confirmed on 16 July 2015, the local authority provided a hyperlink to *“a copy of Lewisham’s current Starting School booklet”* which details further how parents may request admission out of normal age group. However, concerns about the process itself regarding such requests are outside my jurisdiction and should be referred to the DfE.

12. As it is clear from the arrangements that parents may request that children are admitted out of normal age group I conclude that the arrangements comply with paragraph 2.17 of the Code in this respect. Accordingly, I do not uphold this aspect of the objections.

13. The second concern is about the clause in the “later admission” section of the arrangements that requests out of the normal age group will only be granted in “*very exceptional circumstances*.” The objectors argue that the requirement of “*very exceptional circumstances*” is not included anywhere in paragraphs 2.17, 2.17A or 2.17B of the Code. The objectors provided two paragraphs from the DfE advice document and argue that there should not need to be any exceptional reasons for a summer born child starting school in the September after his/her fifth birthday to enter Year R rather than Year 1, and that the clause is an “*incorrect interpretation*” of the DfE advice document which requires “*that summer born requests should be handled differently*”. The way in which requests for earlier or later admission are considered is outside my jurisdiction and any concerns should be referred to the DfE.

14. The third concern expressed by the objectors is that the “later admission” section of the arrangements states that “*the application may be supported by the child’s nursery/primary headteacher and/or an educational psychologist confirming that the child has learning delay or difficulty and their social maturity is well below that of his or her peers*.” The objectors assert that the Code requires only that the admissions authority makes “*decisions on the basis of the circumstances of each case and in the best interests of the child concerned*” and there is no requirement that the child’s “*learning delay or difficulty or their social maturity is well below that of his or her peers*” and no mention of a requirement to provide support from “*the child’s nursery/primary headteacher and/or an educational psychologist/specialist when a summer born child is the child in question*.”

15. The local authority responded that “*the Code requires that admission authorities take account of the child’s academic and social development. Therefore Lewisham considers that it is absolutely essential that any requests for a child to be educated outside their normal cohort to include evidence from the child’s nursery or primary headteacher and an educational psychologist demonstrating that the child has learning delay or difficulty and their social maturity is well below that of his or her peers*.” Any continuing concern among the objectors about the compliance of the arrangements with paragraph 2.17A should be referred to the DfE as the way a request for admission out of normal age group is considered by the admission authority is not within my jurisdiction.

16. The fourth aspect of the arrangements raised as a matter of concern by the objectors is that there is no reference at all in the arrangements to “*summer born*.” The Code refers to “summer born” only within paragraph 2.17, but paragraph 2.17 refers to any child for whom admission out of normal age group may be appropriate and not just to summer born children. I note that the “later admission” section of the arrangements includes the dates of birth to which later admission to the reception year and Year 7 apply for 2016 admissions. There is no requirement for the admissions authority to use the term “summer born”, and therefore I do not uphold this aspect of the objections.

Conclusion

17. The arrangements comply with paragraph 2.17 of the Code because it is clear that the admission of children outside of their normal age group may be requested by parents. I accept that the arrangements make no mention of the term “summer born”,

but there is no requirement specified in the Code for the use of this term. Therefore, I do not uphold either of these aspects of the objections for the reasons explained in the paragraphs above.

18. The other matters of concern to the objectors brought to my attention are beyond my jurisdiction.

19. Accordingly, I do not uphold the objections to the arrangements for community schools determined by Lewisham Council for admissions in September 2016.

Determination

20. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold these objections to the parts within my jurisdiction of the admission arrangements for community schools determined by Lewisham Council for admissions in September 2016.

Dated: 7 August 2015

Signed:

Schools Adjudicator: Ms Cecilia Galloway