



DETERMINATION

Case reference:	ADA2720
Objectors:	Two members of the public
Admission Authority:	The governing body of Rosh Pinah Primary School, Edgware
Date of decision:	6 November 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Rosh Pinah Primary School for admissions in September 2015.

I have also considered the arrangements in accordance with section 88I(5) of the Act and have found there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in paragraph 33 of this adjudication.

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 make the revisions to its admission arrangements as quickly as possible.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an anonymous objection has been referred to the Adjudicator by two members of the public (the objectors) about the 2015 determined admission arrangements (the arrangements) for Rosh Pinah Primary School (the school). The objection relates to the high priority in the oversubscription criteria given to children who are on roll at the attached nursery.

Jurisdiction

2. The arrangements were determined by the governing body of Rosh Pinah Primary School which is the admission authority for this voluntary aided school. The initial objection was submitted to the Office of the Schools Adjudicator (the OSA) on 28 June 2014, but as the objectors wished to remain anonymous, the objection was resubmitted on 7 July 2014 after personal identifying information had been redacted.

3. As the objectors provided their names and address to the OSA, the anonymous objection was allowable under regulation 24 of the School Admissions

(Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider this objection. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering the objection I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:

- a. the objection in an email dated 28 June 2014 with supporting evidence and subsequent correspondence;
- b. the school's response of 14 July 2014 with supporting documentation including the minutes of the governing body's meeting of 12 March 2014 at which the 2015 admission arrangements were determined;
- c. information about the school downloaded from its website on 18 July 2014;
- d. information about the Certificate of Religious Practice downloaded from the United Synagogue website;
- e. further correspondence from the school with supporting documentation after the meeting at the school on 21 July 2014;
- f. an email from the Children's Service of the London Borough of Barnet (the local authority) with attachments including admissions data for the school;
- g. the 2014 composite prospectus and the Reception 2014 Allocation Table downloaded from the local authority's website; and
- h. a copy of determination ADA 2577 for the Independent Jewish Day School published in June 2014 to which the objectors and the school have referred.

5. I arranged a meeting on 21 July 2014 (the meeting) with the school, and representatives of the local authority and the Office of the Chief Rabbi (representing the religious body). Correspondence was also submitted after the meeting as a result of my requests for further information and clarification, and this has been copied to the school, the Office of the Chief Rabbi, the objectors and the local authority as appropriate. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting.

The Objection

6. The objection relates to the high priority in the oversubscription criteria afforded to children who are on roll at the attached nursery and the impact on the availability of places in Reception (Year R) at the school. The objectors were unable to apply for a place in the attached nursery, but would like their child to attend the school and are concerned that the school "*has a policy of prioritising their nursery children for their primary school.*" The objectors say that it seems to be very difficult if not impossible to get a place in Year R unless the child has attended the nursery, which may contravene the Code in terms of fairness as paragraph 14 states that "*in*

*drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.”*

Background

7. The school is a co-educational, voluntary aided primary school for children aged 3 to 11 years with a nursery now housed in a brand new building reported by the school to have cost several million pounds. There are 60 places available in the school's nursery and 60 places in Year R.

8. The 2015 admission arrangements were determined on 12 March 2014 as confirmed in the minutes of the governing body meeting of that date. The minutes also refer to a proposal to contract Lilac Sky Schools to lead and manage the school for an initial period of three years, and at the meeting on 21 July 2014, the school confirmed that the contract had already started.

9. The school is designated by the Secretary of State under section 69(3) of the Act as having a Jewish religious character, and as such, is exempted by Schedule 11 to the Equality Act 2010 (the Equality Act) from the requirement in section 85 of the Equality Act not to discriminate on the grounds of religion in terms of the admission of pupils to the school. The school is therefore permitted by Schedule 11 of the Equality Act to prioritise applicants for a place at the school on the basis of faith. The school describes itself as *“a Scopus Jewish day school”* with a religious character that is *“Modern Orthodox Judaism.”* The school seeks *“to imbue our pupils with an understanding, love and respect for the Jewish religion, a knowledge of Jewish history both biblical and modern, conversance with Ivrit (the modern Hebrew language), a love of their Jewish heritage and respect for Jewish traditional Torah values especially with regard to the family; and the centrality of biblical and modern Israel as a significant component of a rounded Jewish education.”* Although parents/guardians need not be of the Jewish faith to apply for a place at the school for their child, they are asked to respect the school's ethos as it is important to the community.

10. To apply for a Year R place for admission in September 2015, parents are required to complete and return the common application form (CAF) to their local authority by 15 January 2015. Parents are also expected to complete the school's certificate of religious practice (CRP) and the school's supplementary information form (SIF) and to return both of these to the school by the same date. If there are more applications than the 60 places available, then Year R places will be allocated in accordance with the published oversubscription criteria which give priority to children who have *“attained and verified”* six points on the school's CRP.

11. The CRP form is designed to provide an objective test based on the three basic pillars of Judaism (Jewish education, prayer, and acts of kindness) in order that the school may establish whether a child is a member of, or whether they practise, the Jewish faith. For a child that has been pre-registered at a United Synagogue, six points are available if they attend/visit morning Shabbat services on 12 eligible dates within the specified period. However, six points are also available through a combination of any two of the following activities meriting three points: the

child's attendance at eight services; the parent's/guardian's participation in Jewish educational activities at least three times in the 12 months prior to application; and/or the parent's/guardian's participation in an unpaid and non-commercial voluntary capacity in a Jewish communal charity or a welfare activity within the Jewish community on 12 times in the five years prior to application.

12. If the school is oversubscribed, places will be allocated according to the oversubscription criteria which are summarised below:

For applicants with 6 points on the CRP:

1. Looked after children (as defined in Section 22 of the Children Act 1989) or previously looked after children who ceased to be so because they were adopted, or became subject to a residence or special guardianship order);
2. Children of members of the UK Armed Forces, with a confirmed posting to the area who have an official government letter which declares a relocation date and a Unit postal address or quartering area address;
3. Children who are on the roll of the Rosh Pinah Nursery at the date of application to the Primary School with siblings already at the school and the sibling(s) is/are due to continue to attend the school after the applicant enters the school;
4. Children who are on the roll of the Rosh Pinah Nursery at the date of application to the Primary School;
5. Children with siblings already at the school and the sibling(s) is/are due to continue to attend the school after the applicant enters the school;
6. Children of staff, where the member of staff has been employed by the school for longer than 2 or more years at the time at which the application for admission to the school is made;
7. Applicants with 6 points on the CRP whose primary residence is nearest to the main school gate using the local authority's measurement system.

If there are any places remaining then the above criteria will be applied in the same order to applicants with 3 points on the CRP, and then to applicants scoring no CRP points.

The guidance notes indicate that if the number of applicants in any category exceeds the number of places available, the place will be allocated to the applicant living nearest to the main school gate. If there are two or more applications that cannot otherwise be separated, the offer of a place will be the subject of a random allocation by lottery observed by an independent person

The arrangements make clear that attendance in the Nursery does not guarantee admission to the school in Year R, and that for admission to Year R a separate CAF, SIF and CRP form must be completed for a valid application to be made.

Consideration of Factors

13. The objection is that the high priority afforded to children who attend the nursery means that those children who do not attend the nursery have little chance of being allocated a place in Year R. It is therefore important to consider the

oversubscription criteria to assess the chances of a child who had not attended the nursery being allocated a place in Year R for September 2015.

14. The 2015 arrangements make clear that if there are more applications than the 60 places available in Year R, then after any child with a statement of special educational needs which names the school has been admitted, applicants will be prioritised initially into three groups on the basis of points scored on the CRP: with applicants scoring six points having first priority for places, then applicants with three points, and then any places remaining will be allocated to children with no CRP points. Furthermore, within any group, places are prioritised first to looked after and previously looked after children, then to the children of service personnel, nursery children with siblings at the school, nursery children without siblings, applicants with siblings at the school, the children of staff, and then children living nearest to the main school gate. Therefore, on the basis of the oversubscription criteria, it is clear that even with the maximum six CRP points, a child who has not attended the nursery has the lowest priority for a place unless they have a sibling already at the school or one of their parents is a member of staff. Therefore an only child, or the eldest child, of parents not employed by the school is very unlikely to be allocated a place at the school unless s/he has attended the nursery.

15. I accessed the table regarding 2014 allocations published on the local authority's website, and note that the final place in Year R was offered to a sibling with six CRP points living 0.732 miles from the school. It appears that to be allocated a reception place for September 2014, applicants had to have a sibling at the school and reside nearby. I am of the opinion that anyone reading the arrangements may have the perception, particularly in the case of applicants who may be the only child or the eldest child in a family, that a child has virtually no chance of having high enough priority to be allocated a place in Year R unless s/he had previously attended the attached nursery

16. In the meeting on 21 July 2014, there was a discussion about the pattern of allocations over previous years which the local authority had shared with the school. However the school said it considered the 2012 data to be anomalous, suggesting that the nursery and sibling columns in the table had been transposed. In addition, the school said that 2011 was a *"bulge year in that the school agreed to have a three form entry."* The local authority confirmed that the number of applications to the school has greatly exceeded the 60 places available in Year R, but the school explained that families in the faith community usually apply to a range of schools in the area, so that the number of applications was not a true indication of the number of places that would be accepted. In the meeting and in the follow-up letter of 5 August 2014, the school explained that *"parents typically apply to all comparable Jewish schools in the area as a matter of course regardless of their true first preference as a way to ensure that their child gains entry into a Jewish school."* The school also commented that unfilled places impact on the financial position of the school. I asked for a copy of the historical admissions data and for information about the number of families expressing the school as their first preference as the data may be useful in assessing the chances of a child who had not attended the nursery being allocated a place in Year R for September 2015.

17. After the meeting, the local authority provided a copy of the data which had been shared previously with the school, and also provided additional information about the reception places actually taken up, which I have summarised in the table below. I note that for the last four years the number of first preferences has at least matched and more often exceeded the places available.

Year	Applications		Total First Preferences	Reception places taken up						
	On time	Late		Total	SEN	Previously/ Looked after	Attending Nursery	Sibling Link	Distance	Other
2014	132	4	65	60	0	0	57	3	0	0
2013	102	5	63	64	0	0	55	1	8	0
2012	119	2	60	57	0	0	13	39	5	0
2011	134	9	90	80	1	3	52	0	19	6

18. In the response of 14 July 2014, the school acknowledges that the Year R arrangements “do give children attending the nursery priority over other children.” However, the school has analysed the data from the local authority, using the total number of on-time applications to calculate the percentage of applicants offered a place who had not attended the nursery, concluding that “a substantial percentage of applicants who did not attend our nursery did, in fact, receive an offer for a reception place.” However, I am not persuaded by this analysis of allocations as a percentage of the total number of on-time applications as the school had already said that many families apply to a range of schools. The data table presented in paragraph 17 above shows that in 2013, for example, although there were 102 on-time applications, only 63 listed the school as their first preference. It may have been more relevant to base the analysis on the number of first preferences rather than on the total number of on-time applications.

19. In a letter dated 4 August 2014, the school provided an analysis of the number of nursery pupils who then progressed to Year R, shown in the table below. Although there appear to be inconsistencies in data presented by the local authority and the school regarding the number of children prioritised for a reception place on the basis of having attended the nursery, it can be seen that since 2012 most, but not all, of the 60 places available in Year R have been taken up by children who attended the nursery. Again, the data appears to confirm that to have any chance of a place in Year R, an only child or an eldest child would need to have attended the nursery.

Year	Number of nursery pupils moving to Year R	Number of nursery pupils moving to Year R having a sibling in the school
September 2013	52	31
September 2012	54	35
September 2011	39	28

20. I recognise that the arrangements state clearly that attending the nursery does not guarantee a place in Year R, but from the pattern of allocations in the

tables above, it seems that in practice, unless a child has attended the nursery, the chance of them being allocated a place in reception is small, particularly if they do not have a sibling already at the school.

21. In the response of 14 July 2014, the school suggests that there are educational benefits to having children progress through the school from nursery, and that children who have become attached to the school and their classmates at the nursery would be able to progress together into reception and then through the school. The school was also concerned that if nursery priority was not permitted then parents would not be able to secure a Jewish education for their children because there would not be sufficient curriculum time. The school also expressed concern that at a local Jewish primary school which had to remove priority for its attached nursery following an OSA adjudication, nursery enrolment appeared to have fallen and now there were rumours that the nursery at that other Jewish school may have to close within the next year or two.

22. The school commented in the response of 14 July 2014 that *"it would be a shame and run counter to current Government policy if in the name of perceived fairness our nursery (which in the last month has just finished being completely rebuilt at a cost of a couple of million pounds) was forced to close, removing 60 nursery places from the community."* In the meeting the school explained further that it has had to subsidise the nursery for the last three years, and that the financial difficulties of the nursery would become severe if the high priority for attendance at the nursery were to be considered unlawful. The school feared that without a nursery priority there would be a significant drop in enrolment to the nursery which would put its viability at risk.

23. In the response of 14 July 2014, the school also said that the 2015 arrangements had been based on OSA decisions published in November 2008 regarding a number of Jewish schools in Barnet *"in which admissions arrangements with nursery priority provisions similar to ours were upheld."* However, those determinations were made against a much earlier version of the Code, whereas the 2015 arrangements must comply with the Code currently in force. I note from the letter dated 19 June 2014 that the local authority wrote to the headteachers of 13 primary schools in Barnet about *"the recent adjudication that was made in relation to the admission arrangements of The Independent Jewish Day School primarily concerning their prioritisation of nursery children into Reception class."* The local authority suggested that the schools may wish to consider their arrangements in light of the ruling to ensure compliance with the Code, and advised that changes made to comply with a mandatory requirement of the Code would not require a consultation process.

24. I also acknowledge that, prior to receiving the objection; the governing body had scheduled a meeting in September to consider the implications for admissions to the school as a result of *"the recent [OSA] decision in respect of the Independent Jewish Day School."* Accordingly, the school welcomed the opportunity to discuss these matters at the meeting on 21 July 2014 with a view to understanding whether the OSA considered that *"giving children attending the nursery priority over other children is 'per se' a breach of the Code or whether there are circumstances in which the giving of such priority would be upheld."*

25. As the Code does not give permission to, nor prohibit an admission authority from, prioritising places in Year R on the basis of prior attendance at an attached nursery, then it cannot be the case that prioritising nursery children over others is “*per se*” a breach of the Code. The school had noted that the 2013 OSA Annual Report includes the statement that “*silence means neither permission nor prohibition, but does mean that the arrangements must therefore be tested against the general requirements of the Code.*” As the Code does not make a specific reference to the matter, it seems to me that whether a school’s priority for children who have attended a nursery is lawful or not would depend on the particular circumstances of that school and compliance with the general and any individual matters on which the Code sets out what is and is not permitted,

26. In this case, it seems to me that as children who attend the nursery are afforded such a high priority for Year R places, and because there are 60 places available in the nursery, and 60 places in Year R, the impression is given that the school expects all of its places to be filled from the nursery. Consequently, I think it is likely some parents may feel under pressure to send their child to the nursery in order to have any chance of gaining a place at the school. It is possible that all the places in reception would be allocated to children who had attended the nursery. It seems to me that securing a reception place at the school should not be reliant on attendance at the nursery which is not a compulsory phase of education, and which for some families may not be possible or desirable. Accordingly, I consider that the priority for nursery attendance in the oversubscription criteria is unreasonable and contravenes paragraph 1.8 of the Code which states that “*oversubscription criteria must be reasonable*”.

27. As the school affords nursery children a high priority for admission to Year R in September 2015, I have also examined the nursery admission arrangements, as I consider it would also be unreasonable if children were to gain admission to reception in September 2015 on the basis of having first attended the nursery under any terms which would be unlawful for admissions to Year R.

28. The nursery admission arrangements state that “*each successful applicant will receive the statutory free entitlement of 15 hours per week. Those applicants who wish to only take up the free entitlement will be limited to those successful candidates (sibling/non-sibling) who qualify or would qualify for free school meals in accordance with the test utilised by the local authority. We reserve the right to fix the hours of the free entitlement.*” I note that the school uses the term “*free entitlement*” for the government-funded Early Years Entitlement (EY entitlement) of 570 hours nursery attendance per year which equates to 15 hours per week during term time.

29. In the response of 14 July 2014, the school commented that although the “*nursery is a full day nursery and we encourage our children to attend on a full-time basis in order to allow for the full Jewish and secular curriculum syllabi to be taught, [attendance full-time] is not a requirement. Each year we have a number of children who attend our nursery only for the 15 hours per week during term time funded by the Local Authority. As such, we do not believe that our current admissions arrangements are in breach of paragraph 1.9(e) of the Code.*” However, I am not persuaded by this statement as the nursery arrangements for 2013, and for 2014

and 2015 all clearly show that “*free entitlement will be limited to those successful candidates (sibling/non-sibling) who qualify or would qualify for free school meals (FSM) in accordance with the test for FSM utilised by the [local authority].*”

30. I asked the school to provide information about children attending the nursery part-time, and in the letter of 4 August 2014, the school supplied the table below which shows the number of children attending the nursery full-time, and those attending part-time for the government-funded EY entitlement. From the table, it can be seen that only a small minority of children attend the nursery part-time for the government-funded EY entitlement, and the vast majority attend full-time.

Year	Nursery pupils attending full-time	Nursery pupils attending part-time (EY entitlement)
2013	55	5
2012	55	5
2011	57	3

31. Every child attending the nursery receives the “*free entitlement*” of 15 hours per week during term time. However, as the school has chosen to limit part-time attendance to those children eligible for free school meals, it appears that the school expects every other child to attend full-time, and their parent(s) or guardian(s) to pay for the extra hours over and above the “*free entitlement*”. Accordingly, it seems to me that by taking up a full-time place at the nursery, the parent/guardian is paying for the additional nursery provision, which may be regarded as financial support which, in turn, gives priority for admission to the school. Despite the school’s assertion to the contrary, this appears to be a breach of the Code at paragraph 1.9(e) which prohibits the school giving “*priority to children on the basis of any ... financial support parents may give to the school or any associated organisation.*” I also recognise that, for some families who do not qualify for free school meals, the financial implications of a full-time place at the nursery may not be affordable.

32. In my opinion, for the reasons stated above, children would gain admission to the school in September 2015 on the basis of having first attended the nursery under terms which would be unlawful for admissions to Year R. I am therefore persuaded that the high priority in the 2015 arrangements afforded to children who have attended the nursery, having been admitted to the school under terms which would be unlawful for admissions to Year R, is unfair and therefore contrary to paragraph 14 of the Code which requires that “*admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair.*” Accordingly, I am persuaded that the 2015 arrangements are unfair.

Other Matters

33. In reviewing the somewhat complex 2015 admission arrangements I noticed that there were other aspects of the admission arrangements that appeared not to comply with the requirements relating to admission arrangements, so I used my power under s88I of the Act to review the arrangements as a whole for full compliance with the Code. In the meeting I also raised with the school the following points which appeared to me to contravene the Code, as these points could be

amended immediately by the school as a permitted variation under paragraph 3.6 of the Code:

- a) Parents are required to provide the local authority with proof of residency (current council tax bill or utility bill) and proof of date of birth with the CAF at the time of application. Therefore the requirement that parents must provide the same documentary evidence when returning the SIF and the CRP to the school is unnecessary and must be removed. The school may ask for this evidence after places have been offered;
- b) The school states in the introductory paragraphs to the arrangements that *“the admission of pupils with a statement of special educational needs is dealt with by a completely separate procedure and outside of the normal admissions round. Details of this separate procedure are set out in the Special Education Needs Code of Practice. This procedure is run by the Local Authority and if a child with a Statement is placed in the school via the Local Authority before the normal admission offers are made, the number of places may be reduced.”* For greater clarity, in accordance with paragraph 14 of the Code, I suggest that the arrangements should simply state in the introductory paragraphs, before the oversubscription criteria are listed, that children with a statement of special educational needs (or an Education, Health and Care plan) which names the school will be admitted. The Code at paragraph 1.6 requires that *“all children whose statement of special educational needs (SEN) names the school **must** be admitted”*;
- c) The term *“previously looked after children”* in the first oversubscription criterion has been explained, but the term *“looked after children”* would require parents to refer to section 22 of the Children Act 1989 to find the definition. Parents are more likely to easily understand how places will be allocated if the term *“Looked after children”* is defined with reference to *footnote 17 to paragraph 1.7 of the Code*;
- d) The arrangements currently identify three categories of children looked after or previously looked after in terms of CRP points: applicants who score six points; those with three points; and those with none. However, looked after and previously looked after children are either of the faith or not. To comply with the Code at paragraph 1.37, the criteria must be revised so that there are only two categories of looked after and previously looked after children: those of the faith (scoring 6 or 3 points) and those not of the faith (with no CRP points);
- e) The information about the final tie breaker is not provided until the guidance notes after the oversubscription criteria that are long and complex. For greater clarity, I suggest that the information about the final tie breaker should be stated at a much earlier point in the arrangements; and
- f) The guidance notes state that appeals should be *“received within three weeks of the refusal of the place”* but in the meeting I explained that the school’s deadline for appeals is too short. Paragraph 2.19(a) of the School Admission Appeals Code requires that appellants **must** have *“at least 20 school days from the date of notification that their application was unsuccessful to prepare and lodge their written appeal”*;

g) The school prioritises the children of service personnel at criterion 2. The school said this priority was introduced in the 2013 arrangements to comply with paragraph 2.18 of the Code. As the school had interpreted paragraph 2.18 as being a mandatory requirement, it had not consulted publicly before the change was made. In fact, paragraph 2.18 is not a mandatory requirement of the Code, although it does enable the school to allocate a place to the applicant in a service family with a confirmed posting to the area as if already living at that address. The school is not permitted to include a priority in the oversubscription criteria for the children of service personnel as the Code at paragraph 1.9(f) prohibits any priority to children on the basis of their parents' occupational status. The priority for service personnel should therefore be removed from the 2015 arrangements; and

h) I also compared and contrasted the 2015 arrangements with those for the period 2011 to 2014 which had been supplied after the meeting, and note that further changes have been made to the oversubscription criteria. A new priority for the children of staff first appears in the 2013 arrangements, and although priority for children on the basis of their parents' occupational status is prohibited by the Code at paragraph 1.9(f), "*the children of staff*" is a permitted exception. In the 2015 arrangements there is also a new priority for nursery children with a sibling at the school. However, as no information has been submitted by the school regarding any consultations held in the same period, it appears that these two criteria may also have been introduced without the public consultation required by the Code at paragraph 15(b) and as detailed further in paragraphs 1.42 to 1.45. Although the priority for the children of staff does not yet appear to have been activated, I note that if there were to be applications from parents employed at the school (prioritised at criterion 6 in the 2015 arrangements) or from nursery applicants with a sibling at the school (criterion 3) then the effect of these changes would be to further reduce the places available for children who have not previously attended the attached nursery. It appears that in drawing up the 2015 arrangements, the governing body may not have met the mandatory requirement in paragraph 14 of the Code to "*ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*" The governing body must review its procedures before considering making any further changes to the arrangements.

Conclusion

34. The school has chosen to have 60 places available in the nursery, and 60 places in Year R, which in my opinion creates the impression that the school expects all of its places to be filled from the nursery. As the school affords high priority in the oversubscription criteria of the 2015 arrangements to children who are on roll at the attached nursery, some parents may therefore feel under pressure to send their child to the nursery in order to have any chance of securing a reception place. I conclude that the priority for children who have attended the nursery is unreasonable, and does not comply with paragraph 1.8 of the Code.

35. I also consider it is possible that all the places in reception could be allocated to children who had attended the nursery, which is not a compulsory phase of education. Therefore securing a reception place for the start of compulsory

education would be reliant on attendance at the nursery, and which for some families may not be possible or desirable and therefore unfair, contravening the Code at paragraph 14.

36. Furthermore, the school has chosen to limit part-time nursery attendance only to children who qualify or would qualify for free school meals, so that the vast majority of children are expected to attend the nursery full-time. In taking up a full-time place, parent(s) or guardian(s) therefore have to pay for all the additional provision over and above the free EY entitlement of 15 hours per week during term time. For some families, full-time attendance at the nursery may not be affordable, and therefore unfair, in breach of the Code at paragraph 14.

37. In taking up a full-time place, it seems to me that parent(s) or guardian(s) therefore make a financial contribution to the nursery, which in turn gives priority for admission to the school. This appears to contravene paragraph 1.9(e) of the Code which prohibits giving priority to children on the basis of any financial support parents may give to the school or any associated organisation. Children would therefore gain admission to reception in September 2015 on the basis of having first attended the nursery under terms which would be unlawful for admissions to Year R.

38. I recognise the potential educational benefits of children progressing from nursery to reception and then through the school with their peers, and that the additional time in school may support Jewish and secular curriculum provision. I am also aware of the school's need to safeguard the financial viability of the nursery which has been subsidised for several years and has now been rebuilt by the school.

39. However, I consider that the potential educational benefits and financial considerations related to the high priority for Year R places afforded to nursery children is outweighed by the lack of places in compulsory education for families for whom nursery provision may not be a manageable, desirable or affordable option, particularly as those nursery children would have gained admission on terms which would be unlawful for admissions to Year R. Accordingly, I conclude that the priority in the 2015 arrangements afforded to children who have attended the nursery is unfair.

40. For the reasons explained in the paragraphs above, I uphold this objection to the 2015 admission arrangements

Determination

41. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Rosh Pinah Primary School for admissions in September 2015.

42. I have also considered the arrangements in accordance with section 88I(5) of the Act and have found there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in paragraph 33 of this adjudication.

43. 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 make the revisions to its admission arrangements as quickly as possible.

Dated: 6 November 2014

Signed:

Schools Adjudicator: Ms Cecilia Galloway